

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

In the Matter of the Accusation Against:

Case No. 3419

EDRIC CHO
15568 Keson Place
Grass Valley, CA 95949

Pharmacist License No. RPH 38333

Respondent.

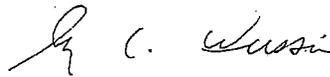
DECISION AND ORDER

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 September 29, 2010.

It is so ORDERED on August 30, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JOHN PADRICK
Deputy Attorney General
4 State Bar No. 155123
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 323-6708
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. AC3419

13 **EDRIC CHO**
1568 Keson Place
14 Grass Valley, CA 95949
15 Pharmacist No. RPH 38333

OAH No. 2010010046

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respondent.

16
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 PARTIES

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

24 2. Respondent Edric Cho (Respondent) is representing himself in this proceeding and
25 has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 19, 1984, the Board of Pharmacy issued Pharmacist License No.
27 RPH 38333 to Edric Cho (Respondent). The Pharmacist License was in full force and effect at all
28

1 times relevant to the charges brought in Accusation No. AC3419 and will expire on June 30,
2 2011, unless renewed.

3 JURISDICTION

4 4. Accusation No. AC3419 was filed before the Board of Pharmacy (Board) ,
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on November 2,
7 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
8 Accusation No. AC3419 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. AC3419. Respondent has also carefully read, and understands the effects of this
12 Stipulated Settlement and Disciplinary Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. AC3419.

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

1 DISCIPLINARY ORDER

2
3 IT IS HEREBY ORDERED that Pharmacist License No. RPH 38333 issued to Respondent
4 Edric Cho (Respondent) is revoked. However, the revocation is stayed and Respondent is placed
5 on probation for four (4) years on the following terms and conditions, which includes suspension
6 from the practice of pharmacy for 30 days from the effective date of this decision. Likewise,
7 Respondent is credited based on his in-patient treatment for the 30 day suspension period and
8 shall serve no actual suspension..

9 **1. Obey All Laws**

10 Respondent shall obey all state and federal laws and regulations.

11 Respondent shall report any of the following occurrences to the board, in writing, within
12 seventy-two (72) hours of such occurrence:

- 13 • an arrest or issuance of a criminal complaint for violation of any provision of the
14 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
15 substances laws
16 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
17 criminal complaint, information or indictment
18 • a conviction of any crime
19 • discipline, citation, or other administrative action filed by any state or federal agency
20 which involves respondent's Pharmacist license or which is related to the practice of
21 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
22 for any drug, device or controlled substance.

23 Failure to timely report such occurrence shall be considered a violation of probation.

24 **2. Report to the Board**

25 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
26 designee. The report shall be made either in person or in writing, as directed. Among other
27 requirements, respondent shall state in each report under penalty of perjury whether there has
28 been compliance with all the terms and conditions of probation. Failure to submit timely reports

1 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
2 in submission of reports as directed may be added to the total period of probation. Moreover, if
3 the final probation report is not made as directed, probation shall be automatically extended until
4 such time as the final report is made and accepted by the board.

5 **3. Interview with the Board**

6 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
7 with the board or its designee, at such intervals and locations as are determined by the board or its
8 designee. Failure to appear for any scheduled interview without prior notification to board staff,
9 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
10 the period of probation, shall be considered a violation of probation.

11 **4. Cooperate with Board Staff**

12 Respondent shall cooperate with the board's inspection program and with the board's
13 monitoring and investigation of respondent's compliance with the terms and conditions of his
14 probation. Failure to cooperate shall be considered a violation of probation.

15 **5. Continuing Education**

16 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
17 pharmacist as directed by the board or its designee.

18 **6. Notice to Employers**

19 During the period of probation, respondent shall notify all present and prospective
20 employers of the decision in case number AC3419 and the terms, conditions and restrictions
21 imposed on respondent by the decision, as follows:

22 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
23 respondent undertaking any new employment, respondent shall cause his direct supervisor,
24 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
25 tenure of employment) and owner to report to the board in writing acknowledging that the listed
26 individual(s) has/have read the decision in case number AC3419, and terms and conditions
27 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
28 supervisor(s) submit timely acknowledgment(s) to the board.

1 If respondent works for or is employed by or through a pharmacy employment service,
2 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
3 licensed by the board of the terms and conditions of the decision in case number AC3419 in
4 advance of the respondent commencing work at each licensed entity. A record of this notification
5 must be provided to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
7 (15) days of respondent undertaking any new employment by or through a pharmacy employment
8 service, respondent shall cause his direct supervisor with the pharmacy employment service to
9 report to the board in writing acknowledging that he has read the decision in case number
10 AC3419 and the terms and conditions imposed thereby. It shall be respondent's responsibility to
11 ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

15 "Employment" within the meaning of this provision shall include any full-time,
16 part-time, temporary, relief or pharmacy management service as a pharmacist or any
17 position for which a pharmacist license is a requirement or criterion for employment,
18 whether the respondent is an employee, independent contractor or volunteer.

19 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
20 **Designated Representative-in-Charge, or Serving as a Consultant**

21 During the period of probation, respondent shall not supervise any intern pharmacist, be the
22 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
23 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
24 unauthorized supervision responsibilities shall be considered a violation of probation.

25 **8. Reimbursement of Board Costs**

26 As a condition precedent to successful completion of probation, respondent shall pay to the
27 board its costs of investigation and prosecution in the amount of \$5,448.00. Respondent shall
28

1 make said payments on a quarterly basis such that the entirety of this amount is paid in full six
2 months before the conclusion of Respondent's probationary period.

3 There shall be no deviation from this schedule absent prior written approval by the board or
4 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
5 probation.

6 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
7 reimburse the board its costs of investigation and prosecution.

8 **9. Probation Monitoring Costs**

9 Respondent shall pay any costs associated with probation monitoring as determined by the
10 board each and every year of probation. Such costs shall be payable to the board on a schedule as
11 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
12 be considered a violation of probation.

13 **10. Status of License**

14 Respondent shall, at all times while on probation, maintain an active, current license with
15 the board, including any period during which suspension or probation is tolled. Failure to
16 maintain an active, current license shall be considered a violation of probation.

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

21 **11. License Surrender While on Probation/Suspension**

22 Following the effective date of this decision, should respondent cease practice due to
23 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
24 respondent may tender his license to the board for surrender. The board or its designee shall have
25 the discretion whether to grant the request for surrender or take any other action it deems
26 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
27 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
28 record of discipline and shall become a part of the respondent's license history with the board.

1 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
2 the board within ten (10) days of notification by the board that the surrender is accepted.

3 Respondent may not reapply for any license from the board for three (3) years from the effective
4 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
5 of the date the application for that license is submitted to the board, including any outstanding
6 costs.

7 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
8 **Employment**

9 Respondent shall notify the board in writing within ten (10) days of any change of
10 employment. Said notification shall include the reasons for leaving, the address of the new
11 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
12 shall further notify the board in writing within ten (10) days of a change in name, residence
13 address, mailing address, or phone number.

14 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
15 phone number(s) shall be considered a violation of probation.

16 **13. Tolling of Probation**

17 Except during periods of suspension, respondent shall, at all times while on probation, be
18 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
19 month during which this minimum is not met shall toll the period of probation, i.e., the period of
20 probation shall be extended by one month for each month during which this minimum is not met.
21 During any such period of tolling of probation, respondent must nonetheless comply with all
22 terms and conditions of probation.

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

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

4 "Cessation of practice" means any calendar month during which respondent is
5 not practicing as a pharmacist for at least 40 hours, as defined by Business and
6 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
7 month during which respondent is practicing as a pharmacist for at least 40 hours as a
8 pharmacist as defined by Business and Professions Code section 4000 et seq.

9 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
10 dispenses medication for a minimum of one year prior to the completion of probation. After the
11 first year of probation, the board or its designee may consider a modification of this requirement.
12 If respondent fails to comply with this requirement or a subsequent modification thereto, such
13 failure shall be considered a violation of probation.

14 **14. Violation of Probation**

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

20 If respondent violates probation in any respect, the board, after giving respondent notice
21 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
22 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
23 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
24 a petition to revoke probation or an accusation is filed against respondent during probation, the
25 board shall have continuing jurisdiction and the period of probation shall be automatically
26 extended until the petition to revoke probation or accusation is heard and decided.

27 ///

28 ///

1 **15. Completion of Probation**

2 Upon written notice by the board or its designee indicating successful completion of
3 probation, respondent's license will be fully restored.

4 **16. Suspension**

5 As part of probation, respondent is suspended from the practice of pharmacy for 30 days
6 beginning the effective date of this decision. However, Respondent is credited with having
7 served this suspension based on his in-patient care.

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

16 Respondent shall not engage in any activity that requires the professional judgment of a
17 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
18 Respondent shall not perform the duties of a pharmacy technician or a designated representative
19 for any entity licensed by the board.

20 Subject to the above restrictions, respondent may continue to own or hold an interest in any
21 licensed premises in which he holds an interest at the time this decision becomes effective unless
22 otherwise specified in this order.

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

24 **17. Pharmacists Recovery Program (PRP)**

25 Within thirty (30) days of the effective date of this decision, respondent shall contact the
26 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
27 successfully participate in, and complete the treatment contract and any subsequent addendums as
28 recommended and provided by the PRP and as approved by the board or its designee. The costs

1 for PRP participation shall be borne by the respondent.

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

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

8 Probation shall be automatically extended until respondent successfully completes the PRP.

9 Any person terminated from the PRP program shall be automatically suspended by the board.

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

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

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

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

23 During suspension, respondent shall not engage in any activity that requires the
24 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
25 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
26 designated representative for any entity licensed by the board.

27 Subject to the above restrictions, respondent may continue to own or hold an interest in any
28 licensed premises in which he holds an interest at the time this decision becomes effective unless

1 otherwise specified in this order.

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

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

6 Respondent shall work in a pharmacy setting with access to controlled substances for six
7 (6) consecutive months before successfully completing probation. If respondent fails to do so,
8 probation shall be automatically extended until this condition has been met. Failure to satisfy this
9 condition within six (6) months beyond the original date of expiration of the term of probation
10 shall be considered a violation of probation.

11 18. **Random Drug Screening**

12 Respondent, at his own expense, shall participate in random testing, including but not
13 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
14 screening program as directed by the board or its designee. Respondent may be required to
15 participate in testing for the entire probation period and the frequency of testing will be
16 determined by the board or its designee. At all times, respondent shall fully cooperate with the
17 board or its designee, and shall, when directed, submit to such tests and samples for the detection
18 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
19 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
20 of probation. Upon request of the board or its designee, respondent shall provide documentation
21 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
22 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
23 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
24 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
25 shall be considered a violation of probation and shall result in the automatic suspension of
26 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
27 notified by the board in writing.

28 During suspension, respondent shall not enter any pharmacy area or any portion of the

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

8 During suspension Respondent shall not engage in any activity that requires the
9 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
10 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
11 designated representative for any entity licensed by the board.

12 Subject to the above restrictions, respondent may continue to own or hold an interest in any
13 licensed premises in which he holds an interest at the time this decision becomes effective unless
14 otherwise specified in this order.

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

16 **19. Abstain from Drugs and Alcohol Use**

17 Respondent shall completely abstain from the possession or use of alcohol, controlled
18 substances, dangerous drugs and their associated paraphernalia except when the drugs are
19 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
20 request of the board or its designee, respondent shall provide documentation from the licensed
21 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
22 treatment of the respondent. Failure to timely provide such documentation shall be considered a
23 violation of probation. Respondent shall ensure that he is not in the same physical location as
24 individuals who are using illicit substances even if respondent is not personally ingesting the
25 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
26 not supported by the documentation timely provided, and/or any physical proximity to persons
27 using illicit substances, shall be considered a violation of probation.

28

1
2 **20. Prescription Coordination and Monitoring of Prescription Use**

3 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
4 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
5 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
6 history with the use of controlled substances, and/or dangerous drugs and who will coordinate and
7 monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-
8 altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation
9 and decision. A record of this notification must be provided to the board upon request.

10 Respondent shall sign a release authorizing the practitioner to communicate with the board about
11 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or
12 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding
13 respondent's compliance with this condition. If any substances considered addictive have been
14 prescribed, the report shall identify a program for the time limited use of any such substances.
15 The board may require that the single coordinating physician, nurse practitioner, physician
16 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
17 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,
18 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,
19 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
20 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit
21 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
22 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

23 If at any time an approved practitioner determines that respondent is unable to practice
24 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
25 telephone and follow up by written letter within three (3) working days. Upon notification from
26 the board or its designee of this determination, respondent shall be automatically suspended and
27 shall not resume practice until notified by the board that practice may be resumed.

28 During suspension, respondent shall not enter any pharmacy area or any portion of the

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

8 During suspension, respondent shall not engage in any activity that requires the
9 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
10 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
11 designated representative for any entity licensed by the board.

12 Subject to the above restrictions, respondent may continue to own or hold an interest in any
13 licensed premises in which he holds an interest at the time this decision becomes effective unless
14 otherwise specified in this order.

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

16 **21. Supervised Practice**

17 During the period of probation, respondent shall practice only under the supervision of a
18 licensed pharmacist not on probation with the board. Upon and after the effective date of this
19 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
20 until a supervisor is approved by the board or its designee. The supervision shall be, as required
21 by the board or its designee, either:

22 Continuous – At least 75% of a work week

23 Substantial - At least 50% of a work week

24 Partial - At least 25% of a work week

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

26 Within thirty (30) days of the effective date of this decision, respondent shall have his
27 supervisor submit notification to the board in writing stating that the supervisor has read the
28 decision in case number AC3419 and is familiar with the required level of supervision as

1 determined by the board or its designee. It shall be the respondent's responsibility to ensure that
2 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
3 the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
4 acknowledgements to the board shall be considered a violation of probation.

5 If respondent changes employment, it shall be the respondent's responsibility to ensure that
6 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
7 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
8 commences, submit notification to the board in writing stating the direct supervisor and
9 pharmacist-in-charge have read the decision in case number AC3419 and is familiar with the
10 level of supervision as determined by the board. Respondent shall not practice pharmacy and his
11 license shall be automatically suspended until the board or its designee approves a new
12 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
13 acknowledgements to the board shall be considered a violation of probation.

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

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

23 During suspension, respondent shall not engage in any activity that requires the
24 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
25 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
26 designated representative for any entity licensed by the board.

27 Subject to the above restrictions, respondent may continue to own or hold an interest in any
28 licensed premises in which he holds an interest at the time this decision becomes effective unless

1 otherwise specified in this order.

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

3 **22. No Ownership of Licensed Premises**

4 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
5 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
6 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
7 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
8 days following the effective date of this decision and shall immediately thereafter provide written
9 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
10 documentation thereof shall be considered a violation of probation.

11 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
12 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
13 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
14 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
15 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
16 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
17 that interest, but only to the extent of that position or interest as of the effective date of this
18 decision. Violation of this restriction shall be considered a violation of probation.

19 **23. Ethics Course**

20 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
21 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
22 Failure to initiate the course during the first year of probation, and complete it within the second
23 year of probation, is a violation of probation.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacist. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: JUNE 28, 2010



EDRIC CHO
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: _____

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

JOHN PADRICK
Deputy Attorney General
Attorneys for Complainant

SA2009101713
Stipulation.rtf

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacist. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

EDRIC CHO
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: 6/29/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



JOHN PADRICK
Deputy Attorney General
Attorneys for Complainant

SA2009101713
Stipulation.rtf

Exhibit A

Accusation No. AC3419

1 EDMUND G. BROWN JR.
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JOHN PADRICK
Deputy Attorney General
4 State Bar No. 155123
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 323-6708
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12
13 **EDRIC CHO**
15568 Keson Place
14 Grass Valley, CA 95949
15
16 Pharmacist No. RPH 38333
Respondent.

Case No. AC 3419

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold, ("Complainant"), brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about March 19, 1984, the Board of Pharmacy issued Pharmacist Number RPH
22 38333 to Edric Cho, ("Respondent"). The license was in full force and effect at all times relevant
23 to the charges brought herein and will expire on June 30, 2011, unless renewed.

24 **JURISDICTION**

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

28 ///

1 4. Section 4301 of the Code states:

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

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

8 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
9 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
10 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
11 to the extent that the use impairs the ability of the person to conduct with safety to the public the
12 practice authorized by the license . . .

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

15 "(k) The conviction of more than one misdemeanor or any felony involving the use,
16 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
17 combination of those substances . . .

18 "(l) The conviction of a crime substantially related to the qualifications, functions, and
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
21 substances or of a violation of the statutes of this state regulating controlled substances or
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
24 The board may inquire into the circumstances surrounding the commission of the crime, in order
25 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
26 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
28 a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning

1 of this provision. The board may take action when the time for appeal has elapsed, or the
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
6 indictment . . .

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

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

12 6. Section 480 states, in pertinent part:

13 "(a) A board may deny a license regulated by this code on the grounds that the
14 applicant has one of the following: . . .

15 "(1) Been convicted of a crime. A conviction within the meaning of this section
16 means a plea or verdict of guilty or a conviction following a plea of *nolo contendere*. . . .

17 "(2) Done any act involving dishonesty, fraud or deceit with the intent to
18 substantially benefit himself or another, or substantially injure another; . . . , or

19 "(3) Done any act which if done by a licentiate of the business or profession in
20 question, would be grounds for suspension or revocation of license. . . .

21 7. Section 4059(a) states:

22 "A person may not furnish any dangerous drug, except upon the prescription of a
23 physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any
24 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or
25 veterinarian. "

26 ///

27 ///

28 ///

1 8. Section 4060 states, in pertinent part:

2 "No person shall possess any controlled substance, except that furnished to a
3 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished
4 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
5 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1."

6 9. Section 4327 states:

7 "Any person, who, while on duty, sells, dispenses or compounds any drug while
8 under the influence of any dangerous drug or alcoholic beverages shall be guilty of a
9 misdemeanor."

10 10. Health and Safety Code section 11170 states:

11 "No person shall prescribe, administer, or furnish a controlled substance for himself."

12 11. Health and Safety Code section 11173(à) states:

13 "(a) No person shall obtain or attempt to obtain controlled substances, or procure
14 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
15 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

16 12. Health and Safety Code section 11350(a) states, in pertinent part:

17 "Except as otherwise provided in this division, every person who possesses (1)
18 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
19 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
20 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
21 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
22 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
23 licensed to practice in this State, shall be punished by imprisonment in the state prison."

24 13. Health and Safety Code section 11377(a) states, in pertinent part:

25 "Except as authorized by law and as otherwise provided in subdivision (b) or
26 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the
27 Business and Professions Code, every person who possesses any controlled substance which is
28 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in

1 subdivision (d) of Section] 1054, except paragraphs (13), (14), (15), and (20) of subdivision (d),
2 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)
3 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section
4 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
5 practice in this state, shall be punished by imprisonment in a county jail for a period of not more
6 than one year or in the state prison."

7 14. Health and Safety Code section 11550(a) states, in pertinent part:

8 "No person shall use, or be under the influence of any controlled substance ... , except
9 when administered by or under the direction of a person licensed by the state to dispense,
10 prescribe, or administer controlled substances."

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

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

18 16. Section 4022 of the Code states:

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

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

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

25 5. Section 4077 of the Code states, in pertinent part, that except as provided in
26 subdivisions (b) and (c) of this section, no person shall dispense any dangerous drug upon
27 prescription except in a container correctly labeled with the information required by Section
28 4076.

1 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS USED

2 6. "Hydrocodone" is a Schedule III controlled substance as designated by Health and
3 Safety Code section 11056 (e) (4).

4 12. "Soma," a brand of carisoprodal, is a "dangerous drug" within the meaning of Code
5 section 4022 in that it requires a prescription under Federal Law.

6 COST RECOVERY

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

11 FIRST CAUSE FOR DISCIPLINE

12 (Conviction of Substantially Related Crimes)

13 8. Respondent is subject to disciplinary action under Code section 4301, subsections (k)
14 and (l), in that on or about August 28, 2008, in the criminal proceeding titled *People v. Edric*
15 *Brian Cho*, (Placer County Superior Court, Case No. 62-78082A), Respondent pled *nolo*
16 *contendere* to two felony counts of grand theft involving the drugs hydrocodone and carisoprodal
17 in violation of Penal Code section 487(a), crimes substantially related to the qualifications,
18 function and duties of a registered pharmacist, as follows:

19 a. During 2007, the pharmacy for the Target store located on Bell Road in Auburn
20 discovered a loss of approximately 6000 hydrocodone tablets and initiated live in-store
21 surveillance with hidden cameras.

22 b. On multiple occasions between January 30, 2008 and February 13, 2008, on camera,
23 Respondent was seen stealing pharmaceuticals from his employer, generally several times a day,
24 and either ingesting them while working as a pharmacist, or concealing the pills in his pocket.

25 c. On February 13, 2008, Respondent was observed by a Placer County Sheriff's
26 Deputy on three separate occasions remove pills from a hydrocodone bottle and ingest them.
27 Thereafter, Respondent was observed with droopy eyelids, slow and unsteady reactions and a dry
28 mouth. Respondent was arrested and a search of his jacket revealed 28 hydrocodone pills and 18

1 1/2 carisoprodal pills free in his pocket. Respondent was transported to jail where a blood sample
2 was obtained that was positive for hydrocodone, carisoprodal, and their metabolites.

3 d. Respondent admitted to taking the above pharmaceuticals from his employer without
4 a prescription since December 2007 and self-administering at the rate of about 8 hydrocodone and
5 4 to 6 carisoprodal per day, which was enough for him to feel slightly "buzzed."

6 SECOND CAUSE FOR DISCIPLINE

7 (Unlawful Possession of Controlled Substances/Dangerous Drugs)

8 9. Respondent is subject to disciplinary action pursuant to Code section 4301 (j), on
9 the grounds of unprofessional conduct, in that he violated Code section 4060 and Health and
10 Safety Code sections 11350, 11173(a), and 11377. Respondent obtained, and was in possession
11 of, controlled substances and dangerous drugs without valid prescriptions, as follows:

12 a. On or about February 13, 2008, Respondent was in possession of the controlled
13 substances and/or dangerous drugs, hydrocodone and carisoprodal, without valid prescriptions.
14 Between December 2007 and February 13, 2008, Respondent obtained unknown quantities of
15 hydrocodone and carisoprodal pills by stealing them from pharmacy inventory, as set forth above
16 in paragraph 8.

17 THIRD CAUSE FOR DISCIPLINE

18 (Self-Administration of Controlled Substances/Dangerous Drugs)

19 10. Respondent is subject to disciplinary action under Code section 4301 (h), on the
20 grounds of unprofessional conduct, in that, Respondent administered controlled
21 substances/dangerous drugs to himself to the extent or in a manner as to be dangerous or injurious
22 to himself and the public, or to the extent that his use impaired his ability to conduct with safety
23 to the public the practice of pharmacy as follows:

24 a. Between January 30, 2008 and February 13, 2008, after two weeks of surveillance,
25 Respondent was seen stealing pharmaceuticals from his employer on multiple occasions,
26 generally several times a day, and either ingesting them while working, or concealing the pills in
27 his pocket, as set forth above in paragraph 8.

28 ///

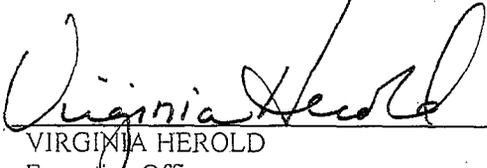
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Pharmacist Number RPH 38333, issued to Edric Cho.
2. Ordering Edric Cho 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: 10/28/09



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

SA2009101713
10482963.doc