

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

In the Matter of the Accusation Against:

Case No. 3568

BRUCE EDWARD CLARK

749 West Escalon
Fresno, CA 93704

Pharmacist License No. RPH 30899

Respondent.

DECISION AND ORDER

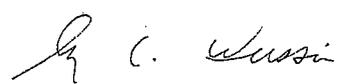
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on December 31, 2010.

It is so ORDERED on December 1, 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
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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. 3568

13 **BRUCE EDWARD CLARK**
749 West Escalon
14 Fresno, CA 93704.
Original Pharmacist License No. RPH 30899

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
18 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
19 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

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 Patrick M. Kenady, Deputy
24 Attorney General.

25 2. Respondent Bruce Edward Clark (Respondent) is represented in this proceeding by
26 attorney George L. Strasser, whose address is Baker, Manock & Jensen, 5260 North Palm
27 Avenue Fourth Floor, Fresno, CA. 93704-2209.

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1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

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

8 DISCIPLINARY ORDER

9 IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 30899 issued to
10 Respondent Bruce Edward Clark (Respondent) is revoked. However, the revocation is stayed and
11 Respondent is placed on probation for five (5) years on the following terms and conditions.

12 1. **Suspension**

13 License No. 30899 issued to Respondent Bruce Edward Clark is suspended for a period of
14 30 days, provided that Respondent shall be given credit for the time his license was suspended
15 under the Pharmacist Recovery Program (PRP).

16 2. **Obey All Laws**

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

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

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

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

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6 3. Report to the Board

7 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
8 designee. The report shall be made either in person or in writing, as directed. Among other
9 requirements, respondent shall state in each report under penalty of perjury whether there has
10 been compliance with all the terms and conditions of probation. Failure to submit timely reports
11 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
12 in submission of reports as directed may be added to the total period of probation. Moreover, if
13 the final probation report is not made as directed, probation shall be automatically extended until
14 such time as the final report is made and accepted by the board.

15 4. Interview with the Board

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

21 5. Cooperate with Board Staff

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

25 6. Continuing Education

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

28 7. Notice to Employers

1 During the period of probation, respondent shall notify all present and prospective
2 employers of the decision in case number 3568 and the terms, conditions and restrictions imposed
3 on respondent by the decision, as follows:

4 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
5 respondent undertaking any new employment, respondent shall cause his direct supervisor,
6 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
7 tenure of employment) and owner to report to the board in writing acknowledging that the listed
8 individual(s) has/have read the decision in case number 3568, and terms and conditions imposed
9 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
10 submit timely acknowledgment(s) to the board.

11 If respondent works for or is employed by or through a pharmacy employment service,
12 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
13 licensed by the board of the terms and conditions of the decision in case number 3568 in advance
14 of the respondent commencing work at each licensed entity. A record of this notification must be
15 provided to the board upon request.

16 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
17 (15) days of respondent undertaking any new employment by or through a pharmacy employment
18 service, respondent shall cause his direct supervisor with the pharmacy employment service to
19 report to the board in writing acknowledging that he has read the decision in case number 3568
20 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
21 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

1 8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as
2 Designated Representative-in-Charge, or Serving as a Consultant

3 During the period of probation, respondent shall not supervise any intern pharmacist, be the
4 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board

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6 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
7 unauthorized supervision responsibilities shall be considered a violation of probation.

8 9. Reimbursement of Board Costs

9 As a condition precedent to successful completion of probation, respondent shall pay to the
10 board its costs of investigation and prosecution in the amount of \$2,244.00. Respondent shall
11 make said payments as follows: Respondent shall make payment in full within two (2) years of
12 the effective date of the decision at the rate of \$150 per month.

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

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

18 10. Probation Monitoring Costs

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

23 11. Status of License

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

27 If respondent's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
2 probation not previously satisfied.

3 12. License Surrender While on Probation/Suspension

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

11 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
12 the board within ten (10) days of notification by the board that the surrender is accepted.
13 Respondent may not reapply for any license from the board for three (3) years from the effective
14 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
15 of the date the application for that license is submitted to the board, including any outstanding
16 costs.

17 13. Notification of a Change in Name, Residence Address, Mailing Address or
18 Employment.

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

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

26 14. Tolling of Probation

27 Except during periods of suspension, respondent shall, at all times while on probation, be
28 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any

1 month during which this minimum is not met shall toll the period of probation, i.e., the period of
2 probation shall be extended by one month for each month during which this minimum is not met.
3 During any such period of tolling of probation, respondent must nonetheless comply with all
4 terms and conditions of probation.

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

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

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

19 15. Violation of Probation

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

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6 16. Completion of Probation

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

9 17. Pharmacists Recovery Program (PRP)

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

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

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

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

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

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

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

27 Respondent may not resume the practice of pharmacy until 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 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
17 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
18 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

19 **18. Random Drug Screening**

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

1 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
2 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
3 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
4 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
5 shall be considered a violation of probation and shall result in the automatic suspension of
6 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
7 notified by the board in writing.

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 controlled substances. Respondent shall not resume practice until notified by the board.

16 During suspension respondent shall not engage in any activity that requires the professional
17 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
18 pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated
19 representative 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 **19. Abstain from Drugs and Alcohol Use**

25 Respondent shall completely abstain from the possession or use of alcohol, controlled
26 substances, dangerous drugs and their associated paraphernalia except when the drugs are
27 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
28 request of the board or its designee, respondent shall provide documentation from the licensed

1 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
2 treatment of the respondent. Failure to timely provide such documentation shall be considered a
3 violation of probation. Respondent shall ensure that he is not in the same physical location as
4 individuals who are using illicit substances even if respondent is not personally ingesting the
5 drugs. Any possession or use of illicit substances or their associated paraphernalia, alcohol, or
6 controlled substances that are not supported by the documentation timely provided, and/or any
7 physical proximity to persons using illicit substances, shall be considered a violation of probation.

8 20. Prescription Coordination and Monitoring of Prescription Use

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

16 Respondent shall sign a release authorizing the practitioner to communicate with the board about
17 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or
18 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding
19 respondent's compliance with this condition. If any substances considered addictive have been
20 prescribed, the report shall identify a program for the time limited use of any such substances.

21 The board may require that the single coordinating physician, nurse practitioner, physician
22 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
23 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,
24 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,
25 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
26 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit
27 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
28 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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

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

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

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

22 21. Community Services Program

23 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
24 board or its designee, for prior approval, a community service program in which respondent shall
25 provide free health-care related services on a regular basis to a community or charitable facility or
26 agency for at least a hundred hours. Within thirty (30) days of board approval thereof, respondent
27 shall submit documentation to the board demonstrating commencement of the community service
28 program. A record of this notification must be provided to the board upon request. Respondent

1 shall report on progress with the community service program in the quarterly reports. Failure to
2 timely submit, commence, or comply with the program shall be considered a violation of
3 probation.

4 22. Supervised Practice

5 During the period of probation, respondent shall practice only under the supervision of a
6 licensed pharmacist not on probation with the board. Upon and after the effective date of this
7 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
8 until a supervisor is approved by the board or its designee. The supervision shall be, as required
9 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, or within thirty (30) days of the
15 beginning of respondent's first employment after the effective date of this decision, which ever
16 occurs later, respondent shall have his supervisor submit notification to the board in writing
17 stating that the supervisor has read the decision in case number 3568 and is familiar with the
18 required level of supervision as determined by the board or its designee. It shall be the
19 respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or
20 supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause the direct
21 supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be
22 considered a violation of probation.

23 If respondent changes employment, it shall be the respondent's responsibility to ensure that
24 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
25 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
26 commences, submit notification to the board in writing stating the direct supervisor and
27 pharmacist-in-charge have read the decision in case number 3568 and is familiar with the level of
28 supervision as determined by the board. Respondent shall not practice pharmacy and his license

1 shall be automatically suspended until the board or its designee approves a new supervisor.
2 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
3 acknowledgements to the board shall be considered a violation of probation.

4 Within ten (10) days of leaving employment, respondent shall notify 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.

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

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

21 **23. No Ownership of Licensed Premises**

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

1 24. Report of Controlled Substances

2 Respondent shall submit quarterly reports prepared by the pharmacist in charge of the
3 facility(ies) where respondent is employed; to the board detailing the total acquisition and
4 disposition of such controlled substances as the board may direct. Such reports shall specify the
5 manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a
6 manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report
7 on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the
8 board no later than ten (10) days following the end of the reporting period. Failure to timely
9 prepare or submit such reports shall be considered a violation of probation.

10 25. Tolling of Suspension

11 During the period of suspension, respondent shall not leave California for any period
12 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
13 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
14 absence from California during the period of suspension exceeding ten (10) days shall toll the
15 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
16 respondent is absent from California. During any such period of tolling of suspension,
17 respondent must nonetheless comply with all terms and conditions of probation.

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

23 26. Ethics Course

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

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

3 ACCEPTANCE

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

9
10 DATED: Aug. 26, 2010 Bruce Edward Clark
11 BRUCE EDWARD CLARK
12 Respondent

13 I have read and fully discussed with Respondent Bruce Edward Clark the terms and
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
15 I approve its form and content.

16 DATED: 8/26/2010 George L. Strasser
17 George L. Strasser
18 Attorney for Respondent

19 ENDORSEMENT

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

22 Dated: 9/6/2010

23 Respectfully Submitted,
24 EDMUND G. BROWN JR.
25 Attorney General of California
26 ARTHUR D. TAGGART
27 Supervising Deputy Attorney General

28 Patrick M. Kenady
PATRICK M. KENADY
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 3568

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

10
11 In the Matter of the Accusation Against:

Case No. 3568

12 BRUCE EDWARD CLARK
749 West Escalon
13 Fresno, CA. 93704
Original Pharmacist License No. RPH 30899

A C C U S A T I O N

14 Respondent.
15

16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs..

20 2. On or about July 20, 1977, the Board of Pharmacy issued Original Pharmacist
21 License Number RPH 30899 to Bruce Edward Clark (Respondent). The Original Pharmacist
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on March 31, 2010, 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 4060 of the Code states:

2 "No person shall possess any controlled substance, except that furnished to a person upon
3 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
4 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
5 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
6 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
7 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
8 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
9 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
10 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
11 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
12 labeled with the name and address of the supplier or producer.

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

16 5. Section 4300 of the Code states"

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

18 6. Section 4301 of the Code states:

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

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

26 ...
27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

oneself, or a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

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

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

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

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

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

FIRST CAUSE FOR DISCIPLINE

(MORAL TURPITUDE, DISHONESTY, FRAUD OR DECEIT)

9. Respondent is subject to disciplinary action under section 4301 (f) in that Respondent between approximately August 2007 and October of 2008, all the exact dates which are unknown, took an estimated 3,505 tablets of alprazolam, a schedule IV controlled substance from

1 Walgreens while employed as a registered pharmacist by deceitfully and untruthfully using
2 fraudulent patient and physician names on fraudulent prescriptions he created to conceal the fact
3 of his diversion of controlled substances in violation of Health and Safety Code Section 11173(a).

4 SECOND CAUSE FOR DISCIPLINE

5 (CONTROLLED SUBSTANCE VIOLATION)

6 10. Respondent is subject to disciplinary action under section 4303(j),(v) in that
7 Respondent between approximately August 2007 and October of 2008 possessed without a valid
8 prescription a controlled substance in violation of section 4060 and Health and Safety Code
9 section 11377(a), to wit: 3,505 tablets of alprazolam, a schedule IV controlled substance which
10 he diverted from Walgreens.

11 THIRD CAUSE FOR DISCIPLINE

12 (UNLAWFUL SELF-ADMINISTRATION OF A CONTROLLED SUBSTANCE)

13 11. Respondent is subject to disciplinary action under section 4301(h) in that between
14 approximately August 2007 and October of 2008 respondent by his own admission administered
15 to himself a controlled substance in violation of Health and Safety code section 11170, to wit:
16 alprazolam a schedule IV controlled substance.

17 PRAYER

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

20 1. Revoking or suspending Original Pharmacist License Number RPH 30899, issued to
21 BRUCE EDWARD CLARK.

22 2. Ordering BRUCE EDWARD CLARK to pay the Board of Pharmacy the reasonable
23 costs of the investigation and enforcement of this case, pursuant to Business and Professions
24 Code section 125.3;

25 ///

26 ///

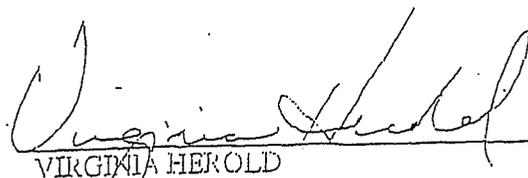
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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/30/10



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

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