

California State Board of Pharmacy 1625 N. Market Blvd, N219, Sacramento, CA 95834 Phone: (916) 574-7900 Fax: (916) 574-8618 www.pharmacv.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY DEPARTMENT OF CONSUMER AFFAIRS GOVERNOR EDMUND G. BROWN JR.

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES
Name: Michael Alexander Glen Address of Record:
Address of Record:
4638 Lee Ct.
Bellingham, WA 98226

Case No.	
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Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 3571 , I hereby request to surrender my license, License No. 51983 . The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender. I shall relinquish my pocket and wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

ant's Sign**/**ature

Executive Officer's Approval

10/18/2013 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

Case No. 3571

#### MICHAEL ALEXANDER GLEN 691 Hilma Drive Eureka, CA 95503

Pharmacist License No. RPH 51983

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 March 28, 2011.

It is so ORDERED on February 25, 2011.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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STANLEY C. WEISSER Board President

By

1 2 3 4 5 6	EDMUND G. BROWN JR. Attorney General of California FRANK H. PACOE Supervising Deputy Attorney General JUSTIN R. SURBER Deputy Attorney General State Bar No. 226937 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 355-5437 Facsimile: (415) 703-5480		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	In the Matter of the Accusation Against:	Case No. 3571	
11	MICHAEL ALEXANDER GLEN	STIPULATED SETTLEMENT AND	
12	691 Hilma Drive Eureka, CA 95503	DISCIPLINARY ORDER	
13	Pharmacist License No. RPH 51983		
14	Respondent.		
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16	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
17	entitled proceedings that the following matters are true:		
18	PARTIES		
19		e Executive Officer of the Board of Pharmacy.	
20	She brought this action solely in her official capacity and is represented in this matter by Edmund		
21	G. Brown Jr., Attorney General of the State of C	alifornia, by Justin R. Surber, Deputy Attorney	
22	General.		
23	*	n (Respondent) is representing himself in this	
24	proceeding and has chosen not to exercise his right		
25	3. On or about September 5, 2000, the	Board of Pharmacy issued Pharmacist License	
26	No. RPH 51983 to Michael Alexander Glen (Re		
27	force and effect at all times relevant to the charg	ges brought in Accusation No. 3571 and will	
28	expire on October 31, 2011, unless renewed.		
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		STIPULATED SETTLEMENT (3571)	

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2	4. Accusation No. 3571 was filed before the Board of Pharmacy (Board), Department of
3	Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
4	statutorily required documents were properly served on Respondent on June 7, 2010. Respondent
5	timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 3571 is
6	attached as Exhibit A and incorporated herein by reference.
7	ADVISEMENT AND WAIVERS
8	5. Respondent has carefully read, and understands the charges and allegations in
9	Accusation No. 3571. Respondent has also carefully read, and understands the effects of this
10	Stipulated Settlement and Disciplinary Order.
11	6. Respondent is fully aware of his legal rights in this matter, including the right to a
12	hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
13	his own expense; the right to confront and cross-examine the witnesses against him; the right to
14	present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
15	the attendance of witnesses and the production of documents; the right to reconsideration and
16	court review of an adverse decision; and all other rights accorded by the California
17	Administrative Procedure Act and other applicable laws.
18	7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
19	every right set forth above.
20	CULPABILITY
21	8. Respondent admits the truth of each and every charge and allegation in Accusation
22	No. 3571.
23	9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
24	to be bound by the Board of Pharmacy (Board)'s probationary terms as set forth in the
25	Disciplinary Order below.
26	CONTINGENCY
27	10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
28	understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
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	STIPULATED SETTLEMENT (3571)

communicate directly with the Board regarding this stipulation and settlement, without notice to 1 or participation by Respondent. By signing the stipulation, Respondent understands and agrees 2 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the 3 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and 4 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for 5 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall 6 not be disgualified from further action by having considered this matter. 7

The parties understand and agree that facsimile copies of this Stipulated Settlement 11. 8 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and 9 effect as the originals. 10

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an 11 integrated writing representing the complete, final, and exclusive embodiment of their agreement. 12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 13 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary 14 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a 15 writing executed by an authorized representative of each of the parties. 16

In consideration of the foregoing admissions and stipulations, the parties agree that 13. 17 the Board may, without further notice or formal proceeding, issue and enter the following 18 Disciplinary Order: 19

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#### **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Pharmacist License No. RPH 51983 issued to Respondent Michael Alexander Glen (Respondent) is revoked. However, the revocation is stayed and 22 Respondent is placed on probation for six (6) years on the following terms and conditions. 23

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#### 1. **Out of State Residence and Practice**

Due to personal issues, respondent has reported that he has relocated to the State of 25 Washington, where he applying to become licensed as a pharmacist. 26

Respondent shall provide the board with his residence address, his mailing address (if 27 different), his phone number, and the name and address of his employer (if any). Respondent 28

shall notify the board of this information no later than ten (10) days after the effective date of this decision. If respondent fails to timely provide his contact and employment information, Respondent will be considered in violation of probation.

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Respondent's probation shall commence on the effective date but be immediately tolled pursuant to this condition ("Out of State Residence and Practice"). During the period of tolling pursuant to this provision, respondent is required to satisfy and comply with terms and conditions 1 (Out of State Residence and Practice) through 9 (Abstain from Drug and Alcohol Possession or 7 Use), inclusive. During such period of tolling, respondent shall not be required to comply with 8 terms and conditions 10 (Supervised Practice) through 19 (Tolling of Probation), inclusive; such 9 terms and conditions will be effective after tolling ends. Terms and conditions 20, 21, 22, 23 and 10 24 shall remain in effect regardless of tolling or suspension. 11

Any period of tolling pursuing to this provision shall not count toward satisfaction of the 12 term of probation, i.e., the period of probation shall be extended for a period equal to any period 13 during which it is tolled pursuant to this provision. The period of probation shall remain a full six 14 (6) years until respondent moves back to California. 15

Should respondent at any time return to the State of California and take up residency, he 16 shall notify the board in writing within three (3) days, and provide the board with his residence 17 address, mailing address (if different), phone number, and the name and address of his employer 18 (if any). Tolling shall cease and the probation period shall commence as of the date that 19 respondent provides the required written notice to the board. If respondent fails to provide the 20 required written notice of return in timely fashion or fails to timely provide his contact and 21 employment information, the probation period will not begin running and either failure will be 22 23 considered a violation of probation.

Respondent shall be permitted to toll the full effectiveness of probation pursuant to this 24 provision only until February 15, 2017. On or prior to that date, respondent shall return to the 25 State of California for residency and commence the full service of his probation, including 26 compliance with all terms and conditions. If respondent fails to return to California by February 27 15, 2017 to commence the full service of his probation, respondent's pharmacist license shall be 28

1	considered surrendered pursuant to term and condition 22 (License Surrender Following Failure	
2	to Return to California) below.	
3	2. Obey All Laws	
4	Respondent shall obey all state and federal laws and regulations.	
5	Respondent shall report any of the following occurrences to the board, in writing, within	
6	seventy-two (72) hours of such occurrence:	
7 8	X an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws	
9 10	X a plea of guilty or nolo contendre in any state or federal criminal proceeding to any criminal complaint, information or indictment	
11	X a conviction of any crime	
12	X discipline, citation, or other administrative action filed by any state or federal agency	
13 14	which involves respondent's Pharmacist License or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.	
15	Failure to timely report such occurrence shall be considered a violation of probation.	
16	3. Report to the Board	
17	Respondent shall report to the board quarterly, on a schedule as directed by the board or its	
18	designee. The report shall be made either in person or in writing, as directed. Among other	
19	requirements, respondent shall state in each report under penalty of perjury whether there has	
20	been compliance with all the terms and conditions of probation. Failure to submit timely reports	
21	in a form as directed shall be considered a violation of probation. Any period(s) of delinquency	
22	in submission of reports as directed may be added to the total period of probation. Moreover, if	
23	the final probation report is not made as directed, probation shall be automatically extended until	
24	such time as the final report is made and accepted by the board.	
25	4. Interview with the Board	
26	Upon receipt of reasonable prior notice, respondent shall appear in person for interviews	
27	with the board or its designee, at such intervals and locations as are determined by the board or its	
28	designee. Failure to appear for any scheduled interview without prior notification to board staff,	
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STIPULATED SETTLEMENT (3571)

or failure to appear for two (2) or more scheduled interviews with the board or its designee during
 the period of probation, shall be considered a violation of probation.

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## Cooperate with Board Staff

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

6. Continuing Education

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

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## 7. Status of License

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

14 If respondent's license expires or is cancelled by operation of law or otherwise at any time 15 during the period of probation, including any extensions thereof due to tolling or otherwise, upon 16 renewal or reapplication respondent's license shall be subject to all terms and conditions of this 17 probation not previously satisfied.

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

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

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

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Abstain from Drug and Alcohol Possession or Use

Respondent shall completely abstain from the possession or use of alcohol, controlled

substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

Upon request of the board or its designee, respondent shall provide documentation from the 3 licensed practitioner that the prescription for the drug was legitimately issued and is a necessary 4 part of the treatment of the respondent. Failure to timely provide such documentation shall be 5 considered a violation of probation. Respondent shall ensure that she is not in the same physical 6 location as individuals who are using illicit substances even if respondent is not personally 7 ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated 8 paraphernalia not supported by the documentation timely provided, and/or any physical proximity 9 to persons using illicit substances, shall be considered a violation of probation. 10

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#### 10. Supervised Practice

Except during any period of tolling due to out-of-state residence, during the period of probation respondent shall practice only under the supervision of a licensed pharmacist not on probation with the board. Except during any period of tolling due to out-of-state residence, upon and after the effective date of this decision, respondent shall not practice pharmacy and his license shall be automatically suspended, until a supervisor is approved by the board or its designee. The supervision shall be, as required by the board or its designee, either:

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Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

Daily Review - Supervisor's review of probationer's daily activities within 24 hours 21 Except during any period of tolling due to out-of-state residence, within thirty (30) days of 22 the effective date of this decision, respondent shall have his supervisor submit notification to the 23 board in writing stating that the supervisor has read the decision in case number 3571 and is 24 25 familiar with the required level of supervision required by the board or its designee. It is respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or 26 supervisor(s) submit timely acknowledgment(s) to the board. Failure to cause the direct 27 supervisor and pharmacist-in-charge to submit timely acknowledgments to the board shall be 28

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considered a violation of probation.

Except during any period of tolling due to out-of-state residence, if respondent changes employment, it shall be the respondent's responsibility to ensure that his employer(s), pharmacistin-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15) days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 3571 and is/are familiar with the level of supervision as determined by the board. Respondent shall not practice pharmacy and his license shall be automatically suspended until the board or its designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

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

During any suspension, respondent shall not enter any pharmacy area or any portion of the 13 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of 14 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices 15 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act 16 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient 17 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the 18 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs 19 and controlled substances. Respondent shall not resume practice until notified by the board. 20

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

Failure to comply with any such suspension shall be considered a violation of probation.
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#### Notice to Employers 11.

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Except during any period of tolling due to out-of-state residence, during the period of 2 probation respondent shall notify all present and prospective employers of the decision in case number 3571 and the terms, conditions and restrictions imposed by the decision, as follows: 4

Except during any period of tolling due to out-of-state residence, within thirty (30) days of 5 the effective date of this decision, and within fifteen (15) days of respondent undertaking any new 6 employment, respondent shall cause his direct supervisor, pharmacist-in-charge (including each 7 new pharmacist-in-charge employed during respondent's tenure of employment) and owner to 8 report to the board in writing acknowledging that the listed individual(s) has/have read the 9 decision in case number 3571, and terms and conditions imposed thereby. It shall be 10 respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely 11 acknowledgment(s) to the board. 12

Except during any period of tolling due to out-of-state residence, if respondent works for or 13 is employed by or through a pharmacy employment service, respondent must notify his direct 14 supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms 15 and conditions of the decision in case number 3571 in advance of commencing work at each 16 licensed entity. A record of this notification must be provided to the board upon request. 17

Furthermore, except during any period of tolling due to out-of-state residence, within thirty 18 (30) days of the effective date of this decision, and within fifteen (15) days of respondent 19 undertaking any new employment by or through a pharmacy employment service, respondent 20 shall cause his direct supervisor with the pharmacy employment service to report to the board in 21 writing acknowledging that he has read the decision in case number 3571 and the terms and 22 conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) 23 and/or supervisor(s) submit timely acknowledgment(s) to the board. 24

Failure to timely notify present or prospective employer(s) or to cause such employer(s) to 25 submit timely acknowledgment(s) to the board shall be considered a violation of probation. 26

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any

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position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

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

Except during any period of tolling due to out-of-state residence, during the period of probation respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board nor serve as a consultant. Assumption of any such unauthorized responsibilities shall be considered a violation of probation.

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#### 13. Suspension

As part of probation, respondent is suspended from the practice of pharmacy for ninety (90)
days beginning the effective date of this decision, or beginning on the date of re-commencement
of probation, if probation is tolled pursuant to respondent's out-of-state residence. Upon
provision of documentation showing to the satisfaction of the board or its designee that at any
time since January 1, 2009 Respondent has been suspended or otherwise prohibited from working
as a pharmacist at the direction of the Pharmacists Recovery Program or other treatment program,
Respondent may receive credit against this suspension period for such documented period(s).

16 During suspension, Respondent shall not enter any pharmacy area or any portion of the 17 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of 18 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices 19 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act 20 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient 21 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the 22 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs 23 and devices or controlled substances.

During suspension, Respondent shall not engage in any activity requiring the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, Respondent may continue to

own or hold an interest in any pharmacy in which she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

### 14. Tolling of Suspension

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

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

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#### 15. Pharmacists Recovery Program (PRP)

Within thirty (30) days of the effective date of this decision or of the date tolling due to outof-state residence ends, respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board or its designee. Costs of PRP participation shall be paid by respondent.

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

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

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

Any person terminated from the PRP program shall be automatically suspended by the board. Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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

16. Random Drug Screening

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Except during any period of tolling due to out-of-state residence, respondent shall, at his own expense, participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the board or its designee. At all

times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be 9 considered a violation of probation and shall result in automatic suspension of practice by 10 respondent. Respondent may not resume practice until notified by the board in writing. 11

During any suspension, respondent shall not enter any pharmacy area or any portion of the 12 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of 13 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices 14 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act 15 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient 16 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the 17 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs 18 and controlled substances. Respondent shall not resume practice until notified by the board. 19

During any suspension, respondent shall not engage in any activity requiring the 20 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the 21 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a 22 designated representative for any entity licensed by the board. 23

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

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**Reimbursement of Board Costs** 17.

As a condition precedent to successful completion of probation, respondent shall pay to the 26 27 board its costs of investigation and prosecution in the amount of \$8754.00, payable in full within the first three years of active probation (i.e., after any period of tolling due to out-of-state 28

residence). Failure to pay costs by the deadline(s) as directed shall be considered a violation of
 probation. Costs shall be paid in a payment plan approved by the board.

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

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## 18. Probation Monitoring Costs

Except during any period of tolling due to out-of-state residence, respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable on a schedule as directed by the board or its designee. Failure to pay such costs by deadline(s) as directed shall be considered a violation of probation.

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#### 19. Tolling of Probation

Except during periods of suspension or during any period of tolling due to residence out of state, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of forty (40) hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Except during any period of tolling due to out-of-state residence, should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California, respondent must notify the board in writing within ten (10) days of the cessation of practice, and must further notify the board in writing within ten (10) days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

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Except during any period of tolling due to out-of-state residence, it shall be a violation of probation for respondent's probation to remain tolled pursuant to this provision for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

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

#### No Ownership of Licensed Premises 20.

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, 2 administrator, member, officer, director, trustee, associate, or partner of any business, firm, 3 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell 4 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) 5 days following the effective date of this decision and shall immediately thereafter provide written 6 proof of sale or transfer to the board. Failure to timely divest any legal or beneficial interest(s) or 7 provide documentation thereof shall be considered a violation of probation. 8

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#### License Surrender While on Probation/Suspension 21.

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

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

22

#### License Surrender Following Failure to Return to California 22.

Pursuant to term and condition 1 (Out of State Residence and Practice), respondent is 23 required to return to the State of California to commence the full service of his probation on or 24 before February 15, 2017. If respondent fails to return to California by February 15, 2017 to 25 begin to full term of his probation, or if respondent fails to notify the board that he has returned to 26 California by February 15, 2017, the board may consider respondent's license to be surrendered. 27 No formal action is required by the board to effectuate a surrender pursuant to this condition. The 28

board may effectuate a surrender pursuant to this section without notice, process, or opportunity to be heard. Respondent agrees that his failure to return to California or his failure to notify the board of his return shall be considered in irrevocable offer to surrender his license.

If respondent's license is surrendered pursuant to this section, respondent will no longer be subject to the terms and conditions of probation. The surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

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

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## 23. Violation of Probation

13 If respondent has not complied with any term or condition of probation, the board shall 14 have continuing jurisdiction over respondent, and probation shall automatically be extended, until 15 all terms and conditions have been satisfied or the board has taken other action as deemed 16 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and 17 to impose the penalty that was stayed.

18 If respondent violates probation in any respect, the board, after giving respondent notice 19 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that 20 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a 21 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If 22 a petition to revoke probation or an accusation is filed against respondent during probation, the 23 board shall have continuing jurisdiction and the period of probation shall be automatically 24 extended until the petition to revoke probation or accusation is heard and decided.

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#### 24. Completion of Probation

26 Upon written notice by the board or its designee indicating successful completion of 27 probation, respondent's license will be fully restored.

1	ACCEPTANCE
2	I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
3	stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
4	Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
5	bound by the Decision and Order of the Board of Pharmacy.
6	
7	DATED: 10/25/2010 Midral Alexander Che
8	MICHAEL ALEXANDER GLEN Respondent
9	
10	ENDORSEMENT
11	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12	submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
13	
14	Dated: Respectfully Submitted,
15	EDMUND G. BROWN JR. Attorney General of California
16	FRANK H. PACOE Supervising Deputy Attorney General
17	
18	JUSTIN R. SURBER
19	Deputy Attorney General Attorneys for Complainant
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21	SF2010400077
22 Stipulation.rtf	
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	STIPULATED SETTLEMENT (3571)

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1	ACCEPTANCE		
2	I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the		
3	stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated		
4	Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be		
5	bound by the Decision and Order of the Board of Pharmacy.		
6			
7	DATED:		
8	MICHAEL ALEXANDER GLEN Respondent		
9			
10	ENDORSEMENT		
11	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
12	submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.		
13			
14	Dated: <u>10/25/10</u> Respectfully Submitted,		
15	EDMUND G. BROWN JR. Attorney General of California		
16	FRANK H. PACOE Supervising Deputy Attorney General		
17	AA		
18	JUSTIN R. SURBER		
19	Deputy Attorney General Attorneys for Complainant		
20	Anorneys for Complainant		
21	SF2010400077		
22	Stipulation.rtf		
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· ]	STIPULATED SETTLEMENT (3571		

# Exhibit A

## Accusation No. 3571

11	
1 2 3 4 5 6 7 8	EDMUND G. BROWN JR. Attorney General of California FRANK H. PACOE Supervising Deputy Attorney General JUSTIN R. SURBER Deputy Attorney General State Bar No. 226937 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 355-5437 Facsimile: (415) 703-5480 Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9 10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 3571
12 13	MICHAEL ALEXANDER GLEN691 Hilma DriveEureka, CA 95503Pharmacist License No. RPH 51983
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 September 5, 2000, the Board of Pharmacy issued Pharmacist License
21	Number RPH 51983 to Michael Alexander Glen (Respondent). The Pharmacist License was in
22	full force and effect at all times relevant to the charges brought herein and will expire on October
23	31, 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	
	]
	Accusation

4. Section 4300 of the Code states:

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

5. Section 4301 of the Code states:

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

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

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

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"(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.

20 21

6. Section 4022 of the Code states

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

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

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

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

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7. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon 4 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor 5 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified 6 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a 7 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, 8 9 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not 10 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, 11 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified 12 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly 13 labeled with the name and address of the supplier or producer. 14

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

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8. Health and Safety Code Section 11350(a) states:

19 "Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of 20 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or 21 22 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 1 1056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic 23 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian 24 licensed to practice in this state, shall be punished by imprisonment in the state prison." 25 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the 2.6 27 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.

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#### DRUGS INVOLVED

10. Hydrocodone/APAP (including brand names Vicodin and Norco) is a schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(4) and a dangerous drug pursuant to Business of Professions Code § 4022.

7 11. Diazepam is a schedule IV controlled substance pursuant to Health and Safety Code
8 Section 11057(d)(9) and a dangerous drug pursuant to Business of Professions Code § 4022.

9 12. Zolpidem is a schedule IV controlled substance pursuant to Health and Safety Code
10 Section 11057(d)(32) and a dangerous drug pursuant to Business of Professions Code § 4022.

Meperidine is a schedule II controlled substance pursuant to Health and Safety Code
 Section 11055(c)(17) and a dangerous drug pursuant to Business of Professions Code § 4022.

13 14. Morphine is a schedule II controlled substance pursuant to Health and Safety Code
14 Section 11055(b)(1)(M) and a dangerous drug pursuant to Business of Professions Code § 4022.

15 15. Oxycodone (including brand names Oxycontin and Percocet) is a schedule II
16 controlled substance pursuant to Health and Safety Code Section 11055(b)(1)(N) and a dangerous
17 drug pursuant to Business of Professions Code § 4022.

18 16. Cocaine is a schedule II controlled substance pursuant to Health and Safety Code
19 Section 11055(b)(2)(6) and a dangerous drug pursuant to Business of Professions Code § 4022.
20 17. Hydromorphone is a schedule II controlled substance pursuant to Health and Safety
21 Code Section 11055(b)(1)(K) and a dangerous drug pursuant to Business of Professions Code §
22 4022.

18. Fentanyl is a schedule II controlled substance pursuant to Health and Safety Code
Section 11055(c)(8) and a dangerous drug pursuant to Business of Professions Code § 4022.

#### FACTUAL BACKGROUND

19. From about mid 2006 until July 21, 2008, Respondent stole Vicodin, Norco,
Diazepam, Fentanyl, Hydromorphone, Cocaine, Oxycodone, Morphine, Meperidine, Zolpidem
and Percocet from his employer Mad River Community Hospital. Respondent stole these drugs

1	for personal use. Respondent used these drugs. Respondent did not have a prescription for these
2	drugs.
3	FIRST CAUSE FOR DISCIPLINE
4	(Unprofessional Conduct-Moral Turpitude, Dishonesty, Fraud, and/or Deceit)
5	20. Respondent is subject to disciplinary action under section 4301 (f) of the code in that
6	Respondent committed acts of moral turpitude, dishonesty, and/or deceit. The circumstances are
7	described in paragraph 19, above.
8	SECOND CAUSE FOR DISCIPLINE
9	(Unprofessional Conduct-Drug Use)
10	21. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
11	Respondent used controlled substances and dangerous drugs without a prescription. Respondent
12	used controlled substances and dangerous to an extent that dangerous or injurious to himself. The
13	circumstances are described in paragraph 19, above.
14	THIRD CAUSE FOR DISCIPLINE
15	(Unprofessional Conduct- Violation of Drug Laws)
16	22. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
17	Respondent violated Business and Professions Code § 4060 and Health Safety Code §11350
18	(both state statutes regulating controlled substances and dangerous drugs) by possessing
19	controlled substances and dangerous drugs without a prescription. The circumstances are
20	described in paragraph 19, above.
21	PRAYER
22	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23	and that following the hearing, the Board of Pharmacy issue a decision:
24	1. Revoking or suspending Pharmacist License Number RPH 51983, issued to Michael
25	Alexander Glen.
26	2. Ordering Michael Alexander Glen to pay the Board of Pharmacy the reasonable costs
27	of the investigation and enforcement of this case, pursuant to Business and Professions Code
28	section 125.3;
	5
	Accusation

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Taking such other and further action as deemed necessary and proper. 3. DATED: 6/3/00 VIRGINIA Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant SF2010400077 40427270.doc