

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

In the Matter of the Accusation Against:

Case No. 3729

JAMES A. GREENLEE
25 Cosmo Drive
Chico, CA 95926

Pharmacist License No. RPH 48842

Respondent.

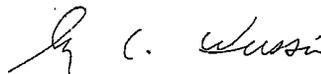
DECISION AND ORDER

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 April 12, 2012.

It is so ORDERED on March 13, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 3729

12 **JAMES A. GREENLEE**
13 **25 Cosmo Dr.**
14 **Chico, California 95926**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Pharmacist License No. RPH 48842**

16 Respondent.

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

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 Kamala
23 D. Harris, Attorney General of the State of California, by Geoffrey S. Allen, Deputy Attorney
24 General.

25 2. Respondent James A. Greenlee (Respondent) is represented in this proceeding by
26 attorney Dugan Barr, whose address is: Barr and Mudford, 1824 Court St., P. O. Box 994390
27 Redding, CA 96099-4390.
28

CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 48842 issued to Respondent
25 James A. Greenlee is revoked. However, the revocation is stayed and Respondent is placed on
26 probation for four (4) years on the following terms and conditions.

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1 **1. Obey All Laws**

2 Respondent shall obey all state and federal laws and regulations. Respondent shall report
3 any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such
4 occurrence:

- 5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws;
- 8 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
9 criminal complaint, information or indictment;
- 10 • a conviction of any crime;
- 11 • discipline, citation, or other administrative action filed by any state or federal agency
12 which involves Respondent's License or which is related to the practice of pharmacy
13 or the manufacturing, obtaining, handling, distributing, billing, or charging for any
14 drug, device or controlled substance.

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

16 **2. 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 **3. 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
28 its designee. Failure to appear for any scheduled interview without prior notification to Board

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

3 **4. Cooperate with Board Staff**

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

7 **5. Continuing Education**

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

10 **6. Notice to Employers**

11 During the period of probation, Respondent shall notify all present and prospective
12 employers of the decision in Board case number 3729 and the terms, conditions and restrictions
13 imposed on Respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
16 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
17 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
18 individual(s) has/have read the decision in Board case number 3729, and terms and conditions
19 imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
20 supervisor(s) submit timely acknowledgment(s) to the Board.

21 If Respondent works for or is employed by or through a pharmacy employment service,
22 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the Board of the terms and conditions of the decision in Board case number 3729 in
24 advance of the Respondent commencing work at each licensed entity. A record of this
25 notification must be provided to the Board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of Respondent undertaking any new employment by or through a pharmacy
28 employment service, Respondent shall cause his direct supervisor with the pharmacy employment

1 service to report to the Board in writing acknowledging that he has read the decision in Board
2 case number 3729 and the terms and conditions imposed thereby. It shall be Respondent's
3 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s) to the Board.

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

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

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

14 During the period of probation, Respondent shall not supervise any intern pharmacist, be
15 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
16 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
17 unauthorized supervision responsibilities shall be considered a violation of probation.

18 **8. Reimbursement of Board Costs**

19 As a condition precedent to successful completion of probation, Respondent shall pay to the
20 Board its costs of investigation and prosecution in the amount of \$5,015.00. Respondent may
21 make payments in a plan approved by the Board or its designee.

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

25 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
26 reimburse the Board its costs of investigation and prosecution.

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1 **9. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
4 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
5 shall be considered a violation of probation.

6 **10. Status of License**

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

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

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

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

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

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1 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

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

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

10 **13. Tolling of Probation**

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

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

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

25 "Cessation of practice" means any calendar month during which Respondent is
26 not practicing as a pharmacist for at least 40 hours, as defined by Business and
27 Professions Code section 4000 et seq . "Resumption of practice" means any calendar
28

1 month during which Respondent is practicing as a pharmacist for at least 40 hours as
2 a pharmacist as defined by Business and Professions Code section 4000 et seq.

3 **14. Violation of Probation**

4 If a Respondent has not complied with any term or condition of probation, the Board shall
5 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
6 until all terms and conditions have been satisfied or the Board has taken other action as deemed
7 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
8 to impose the penalty that was stayed.

9 If Respondent violates probation in any respect, the Board, after giving Respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
12 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
13 a petition to revoke probation or an accusation is filed against Respondent during probation, the
14 Board shall have continuing jurisdiction and the period of probation shall be automatically
15 extended until the petition to revoke probation or accusation is heard and decided.

16 **15. Completion of Probation**

17 Upon written notice by the Board or its designee indicating successful completion of
18 probation, Respondent's License will be fully restored.

19 **16. Pharmacists Recovery Program (PRP)**

20 Within thirty (30) days of the effective date of this decision, Respondent shall contact the
21 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
22 successfully participate in, and complete the treatment contract and any subsequent addendums as
23 recommended and provided by the PRP and as approved by the Board or its designee. The costs
24 for PRP participation shall be borne by the Respondent.

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

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

3 Probation shall be automatically extended until Respondent successfully completes the
4 PRP. Any person terminated from the PRP program shall be automatically suspended by the
5 Board. Respondent may not resume the practice of pharmacy until notified by the Board in
6 writing.

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

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

11 During 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 suspension, Respondent shall not engage in any activity that requires 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 Subject to the above restrictions, Respondent may continue to own or hold an interest in
24 any licensed premises in which he holds an interest at the time this decision becomes effective
25 unless otherwise specified in this order.

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

27 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
28 timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid

1 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

2 **17. Random Drug Screening**

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

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

27 During suspension Respondent shall not engage in any activity that requires the
28 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
2 designated representative for any entity licensed by the Board.

3 Subject to the above restrictions, Respondent may continue to own or hold an interest in
4 any licensed premises in which he holds an interest at the time this decision becomes effective
5 unless otherwise specified in this order.

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

7 **18. Abstain from Drugs and Alcohol Use**

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

19 **19. Community Services Program**

20 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
21 Board or its designee, for prior approval, a community service program in which Respondent
22 shall provide free health-care related services on a regular basis to a community or charitable
23 facility or agency for at least two hundred fifty (250) hours during the period of probation.

24 Within thirty (30) days of Board approval thereof, Respondent shall submit documentation to the
25 Board demonstrating commencement of the community service program. A record of this
26 notification must be provided to the Board upon request. Respondent shall report on progress
27 with the community service program in the quarterly reports. Failure to timely submit,
28 commence, or comply with the program shall be considered a violation of probation.

1 20. **Supervised Practice**

2 During the period of probation, Respondent shall practice only under the supervision of a
3 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
4 decision, Respondent shall not practice pharmacy and his License shall be automatically
5 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
6 as required by the Board or its designee, either:

7 Continuous – At least 75% of a work week.

8 Substantial - At least 50% of a work week

9 Partial - At least 25% of a work week

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

11 Within thirty (30) days of the effective date of this decision, Respondent shall have his
12 supervisor submit notification to the board in writing stating that the supervisor has read the
13 decision in Board case number 3729 and is familiar with the required level of supervision as
14 determined by the Board or its designee. It shall be the Respondent's responsibility to ensure that
15 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
16 the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
17 acknowledgements to the Board shall be considered a violation of probation.

18 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
19 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
20 acknowledgement(s) to the Board. Respondent shall have his new supervisor, within fifteen (15)
21 days after employment commences, submit notification to the Board in writing stating the direct
22 supervisor and pharmacist-in-charge have read the decision in Board case number 3729 and is
23 familiar with the level of supervision as determined by the Board. Respondent shall not practice
24 pharmacy and his License shall be automatically suspended until the Board or its designee
25 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
26 submit timely acknowledgements to the Board shall be considered a violation of probation.

27 Within ten (10) days of leaving employment, Respondent shall notify 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
13 any licensed premises in which he holds an interest at the time this decision becomes effective
14 unless otherwise specified in this order.

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

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

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

24 **22. Ethics Course**

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

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

9
10 DATED: 10/6/11 James A Greenlee
11 JAMES A. GREENLEE
Respondent

12 I have read and fully discussed with Respondent James A. Greenlee the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
14 I approve its form and content.

15 DATED: 10/11/11 Dugan Barr
16 DUGAN BARR
Attorney for Respondent

17 ENDORSEMENT

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

20 Dated: 10/12/11 Respectfully submitted,
21 KAMALA D. HARRIS
22 Attorney General of California
23 GJA
24 GEOFFREY S. ALLEN
25 Deputy Attorney General
26 Attorneys for Complainant

27 SA2010101422
28 10756059.doc

SIGN
HERE
SIGN
HERE

Exhibit A

Accusation No. 3729

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643
7 E-mail: Geoffrey.Allen@doj.ca.gov
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3729

12 **JAMES A. GREENLEE**
13 **25 Cosmo Dr.**
14 **Chico, California 95926**

A C C U S A T I O N

15 **Pharmacist License No. RPH 48842**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about August 29, 1996, the Board of Pharmacy issued Pharmacist License
22 Number RPH 48842 (License) to James A. Greenlee (Respondent). The License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on July 31, 2012,
24 unless renewed.

25 ///

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27 ///

JURISDICTION

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

4. Code section 4300 states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

....

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

5. Code section 4301 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:

....

(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.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(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

1 ability of the person to conduct with safety to the public the practice authorized by
the license.

2
3 (j) The violation of any of the statutes of this state, or any other state, or of the
4 United States regulating controlled substances and dangerous drugs.

5
6 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
7 abetting the violation of or conspiring to violate any provision or term of this
8 chapter or of the applicable federal and state laws and regulations governing
9 pharmacy, including regulations established by the board or by any other state or
10 federal regulatory agency.

11
12 6. Code section 4022 states:

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

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

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

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

23 7. Code section 4059.5, subd. (a), states:

24 (a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
25 devices may only be ordered by an entity licensed by the board and shall be delivered
26 to the licensed premises and signed for and received by a pharmacist. Where a
27 licensee is permitted to operate through a designated representative, the designated
28 representative may sign for and receive the delivery.

8. Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a
person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply
to the possession of any controlled substance by a manufacturer, wholesaler,
pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician
assistant, when in stock in containers correctly labeled with the name and address of
the supplier or producer.

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

4 9. Code section 4063 states:

5 No prescription for any dangerous drug or dangerous device may be refilled
6 except upon authorization of the prescriber. The authorization may be given orally
7 or at the time of giving the original prescription. No prescription for any dangerous
8 drug that is a controlled substance may be designated refillable as needed.

9 10. Code section 4324, subd. (a), states:

10 (a) Every person who signs the name of another, or of a fictitious person, or
11 falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine,
12 any prescription for any drugs is guilty of forgery and upon conviction thereof shall
13 be punished by imprisonment in the state prison, or by imprisonment in the county
14 jail for not more than one year.

15 11. Health and Safety Code section 11170 states:

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

17 12. Health and Safety Code section 11173, subd. (a), states:

18 (a) No person shall obtain or attempt to obtain controlled substances, or
19 procure or attempt to procure the administration of or prescription for controlled
20 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
21 concealment of a material fact.

22 13. Health and Safety Code section 11350, subd. (a), states:

23 Except as otherwise provided in this division, every person who possesses (1)
24 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
25 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
26 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
27 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
28 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
practice in this state, shall be punished by imprisonment in the state prison.

 14. Health and Safety Code section 11377, subd. (a), states:

 Except as authorized by law and as otherwise provided in subdivision (b) or
Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
Division 2 of the Business and Professions Code, every person who possesses any
controlled substance which is (1) classified in Schedule III, IV, or V, and which is
not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except
paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph
(11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of
subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of
Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or
veterinarian, licensed to practice in this state, shall be punished by imprisonment in
a county jail for a period of not more than one year or in the state prison.

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b. Respondent possessed alprazolam³ on multiple dates and on exact dates only known to Respondent when while working as a pharmacist at Enloe Pharmacy he refilled his prescriptions for alprazolam earlier and more frequently than authorized by the prescriber.

c. Respondent, while working as a pharmacist at Enloe Pharmacy, self-filled prescriptions for alprazolam on or about: March 20, 2009; April 30, 2009; May 15, 2009; June 5, 2009; June 30, 2009; July 20, 2009; and September 1, 2009.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Self-Administration of Controlled Substances)

18. Respondent is subject to disciplinary action under Code section 4301, subds. (j), (h) and (o); and Health and Safety Code section 11170 in that Respondent engaged in unprofessional conduct by unlawfully self-administering controlled substances. The circumstances are as follows: in between May 5, 2007, and January 31, 2010, on specific dates only known to Respondent, Respondent unlawfully self-administered hydrocodone/apap 10/325, Adderall 30 mg., alprazolam, and Phentermine⁴.

FOURTH CAUSE FOR DISCIPLINE

(Creating False or Fraudulent Controlled Substance Prescription Records)

19. Respondent is subject to disciplinary action under Code sections 4301, subds. (f), (g), (j) and (o); and 4324(a) and Health and Safety Code section 11173, subd. (b), in that Respondent engaged in unprofessional conduct by falsifying prescriptions for controlled substances. The circumstances are as follows: in between March 20, 2009, and September 1, 2009, Respondent while working as a pharmacist at Enloe Pharmacy falsified two prescriptions for Phentermine. One prescription was refilled three times and the other was refilled two times by Respondent.

³ Alprazolam is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(f)(4) and is a dangerous drug within the meaning of Code section 4022, in that under federal law it requires a prescription.

⁴ Phentermine is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(f)(4) and is a dangerous drug within the meaning of Code section 4022, in that under federal law it requires a prescription.

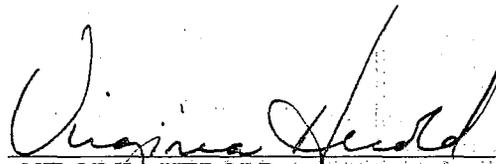
1 Respondent falsified the prescriptions as if Dr. Ekkens had authorized the prescriptions for
2 Respondent's wife, Cathleen Greenlee. In fact neither Dr. Ekkens or Respondent's wife knew
3 anything the prescriptions or the refills. The prescriptions were not authorized by Dr. Ekkens.
4 Respondent filled the prescriptions for himself and self-administered the Phentermine.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacist License Number RPH 48842, issued to James A.
9 Greenlee
10 2. Ordering James A. Greenlee to pay the Board of Pharmacy the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;
13 3. Taking such other and further action as deemed necessary and proper.

14
15
16 DATED: 11/2/10


17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant

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