

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

In the Matter of the Accusation Against:

**Darek Terrell Jones
P.O. Box 51999
Pacific Grove, CA 93950**

Pharmacist License No. RPH 59702

Respondent.

Case No. 3813

OAH No. 2011100185

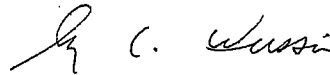
DECISION AND ORDER

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 May 18, 2012.

It is so ORDERED on April 18, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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

10 In the Matter of the Accusation Against:

11 **DAREK TERRELL JONES**
12 **P.O. Box 51999**
13 **Pacific Grove, CA 93950**

14 **Pharmacist License No. RPH 59702**

15 Respondent.

Case No. 3813

OAH No. 2011100185

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20
21 PARTIES

22 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
23 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
24 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

25 2. Darek Terrell Jones (Respondent) is represented in this proceeding by attorney Paul
26 Chan, whose address is: Law Offices of Paul Chan, 400 Capitol Mall, Suite 2545, Sacramento,
27 CA 95814 (telephone (916) 332-3971).

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 59702, issued to Darek
3 Terrell Jones (Respondent), is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for five (5) years on the following terms and conditions.

5 **1. Suspension**

6 As part of probation, Respondent is suspended from the practice of pharmacy for ninety
7 (90) days beginning on the effective date of this decision.

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

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

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

21 **2. Tolling of Suspension**

22 During the period of suspension, Respondent shall not leave California for any period
23 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
24 of ten (10) days during suspension shall be considered a violation of probation.

25 Moreover, any absence from California during the period of suspension exceeding ten (10)
26 days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over
27 ten (10) days Respondent is absent from California. During any such period of tolling of
28 suspension, Respondent must nonetheless comply with all terms and conditions of probation.

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

6 **3. Obey All Laws**

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

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

- 10 • an arrest or issuance of a criminal complaint for violation of any provision of the
11 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
substances laws
- 12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
13 criminal complaint, information or indictment
- 14 • a conviction of any crime
- 15 • discipline, citation, or other administrative action filed by any state or federal agency
16 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.

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

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

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

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1 **6. Report to the Board**

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

10 **7. Continuing Education**

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

13 **8. Status of License**

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

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

21 **9. Notification of Change in Employment, Name, Address(es), or Phone(s)**

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

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

1 **10. Employment Requirement: Tolling of Probation**

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

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

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

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

21 **11. Supervised Practice**

22 During the period of probation, Respondent shall practice only under the supervision of a
23 licensed pharmacist not on probation with the board. Upon and after the effective date of this
24 decision, Respondent shall not practice pharmacy and his license shall be automatically
25 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
26 as required by the board or its designee, either:

27 Continuous – At least 75% of a work week

28 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

1 Within thirty (30) days of the effective date of this decision, Respondent shall have his
2 supervisor submit notification to the board in writing stating that the supervisor has read the
3 decision in case number 3813 and is familiar with the required level of supervision as determined
4 by the board or its designee. It shall be the Respondent's responsibility to ensure that his
5 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
6 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
7 acknowledgements to the board shall be considered a violation of probation.

8 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
9 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
10 acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15)
11 days after employment commences, submit notification to the board in writing stating the direct
12 supervisor and pharmacist-in-charge have read the decision in case number 3813 and is/are
13 familiar with the level of supervision as determined by the board. Respondent shall not practice
14 pharmacy and his license shall be automatically suspended until the board or its designee
15 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
16 submit timely acknowledgements to the board shall be considered a violation of probation.

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

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

1 Failure to comply with any such suspension shall be considered a violation of probation.

2 **12. Notice to Employers**

3 During the period of probation, Respondent shall notify all present and prospective
4 employers of the decision in case number 3813 and the terms, conditions and restrictions imposed
5 on Respondent by the decision, as follows:

6 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
7 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
8 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
9 tenure of employment) and owner to report to the board in writing acknowledging that the listed
10 individual(s) has/have read the decision in case number 3813, and terms and conditions imposed
11 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
12 supervisor(s) submit timely acknowledgment(s) to the board.

13 If Respondent works for or is employed by or through a pharmacy employment service,
14 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
15 licensed by the board of the terms and conditions of the decision in case number 3813 in advance
16 of the Respondent commencing work at each licensed entity. A record of this notification must
17 be provided to the board upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of Respondent undertaking any employment by or through a pharmacy employment
20 service, Respondent shall cause his direct supervisor with the pharmacy employment service to
21 report to the board in writing acknowledging that he has read the decision in case number 3813
22 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure
23 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

7 **14. No Ownership of Licensed Premises**

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

15 **15. Reimbursement of Board Costs**

16 As a condition precedent to successful completion of probation, Respondent shall pay to the
17 board its costs of investigation and prosecution in the amount of \$5,500.00. Respondent shall be
18 permitted to pay these costs in a payment plan approved by the Board or its designee, so long as
19 full payment is made within fifty-four (54) months of the effective date of this decision. There is
20 to be no deviation from this schedule absent prior written approval by the Board or its designee.
21 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

22 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
23 reimburse the board its costs of investigation and prosecution.

24 **16. Probation Monitoring Costs**

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

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1 **17. Mental Health Examination**

2 Within thirty (30) days of the effective date of this decision, and on a periodic basis as may
3 be required by the board or its designee, Respondent shall undergo, at his own expense,
4 evaluation(s) by a board-appointed or board-approved licensed mental health practitioner. The
5 approved evaluator shall be provided with a copy of the board's Accusation and decision.
6 Respondent shall sign a release authorizing the evaluator to furnish the board with a current
7 diagnosis and a written report regarding the Respondent's judgment and ability to function
8 independently as a pharmacist with safety to the public. Respondent shall comply with all the
9 recommendations of the evaluator if directed by the board or its designee.

10 If the evaluator recommends, and the board or its designee directs, Respondent shall
11 undergo psychotherapy. Within thirty (30) days of notification by the board that a
12 recommendation for psychotherapy has been accepted, Respondent shall submit to the board or
13 its designee, for prior approval, the name and qualification of a licensed mental health practitioner
14 of Respondent's choice. Within thirty (30) days of approval thereof by the board or its designee,
15 Respondent shall submit documentation to the board demonstrating the commencement of
16 psychotherapy with the approved licensed mental health practitioner. Should Respondent, for any
17 reason, cease treatment with the approved licensed mental health practitioner, Respondent shall
18 notify the board immediately and, within thirty (30) days of ceasing treatment therewith, submit
19 the name of a replacement licensed mental health practitioner of Respondent's choice to the board
20 or its designee for prior approval. Within thirty (30) days of approval thereof, Respondent shall
21 submit documentation to the board or its designee demonstrating the commencement of
22 psychotherapy with the approved replacement. Failure to comply with any requirement or
23 deadline stated by this paragraph shall be considered a violation of probation.

24 Upon approval of the initial or any subsequent licensed mental health practitioner,
25 Respondent shall undergo and continue treatment with that therapist, at Respondent's own
26 expense, until the therapist recommends in writing to the board, and the board or its designee
27 agrees by way of a written notification to Respondent, that no further psychotherapy is necessary.

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1 Upon receipt of such recommendation from the therapist, and before determining whether
2 to accept or reject the recommendation, the board or its designee may require Respondent to
3 undergo, at Respondent's expense, a mental health evaluation by a separate board-appointed or
4 board-approved evaluator. If the approved evaluator recommends that Respondent continue
5 psychotherapy, the board or its designee may require Respondent to continue psychotherapy.

6 Psychotherapy shall be at least once a week unless otherwise approved by the board or its
7 designee. Respondent shall provide the therapist with a copy of the board's Accusation and
8 decision no later than the first therapy session. Respondent shall take all necessary steps to
9 ensure that the treating therapist submits written quarterly reports to the board concerning
10 Respondent's fitness to practice, progress in treatment, and other such information as may be
11 required or later specified by the board or its designee.

12 If at any time the approved evaluator or therapist determines that Respondent is unable to
13 practice safely or independently as a pharmacist, he or she shall notify the board immediately by
14 telephone and follow up by written letter within three (3) working days. Upon notification from
15 the board or its designee of this determination, Respondent shall be automatically suspended and
16 shall not resume practice until notified by the board that practice may be resumed.

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

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

1 Failure to comply with any such suspension shall be considered a violation of probation.

2 **18. Pharmacists Recovery Program (PRP)**

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

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

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

14 Probation will be automatically extended until Respondent successfully completes the PRP.
15 If Respondent is terminated from the PRP program, he shall be automatically suspended, and may
16 not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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

5 Failure to comply with any such suspension shall be considered a violation of probation.

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

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

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

21 **20. Prescription Coordination and Monitoring of Prescription Use**

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

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

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

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

27 During any such 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 Failure to comply with any such suspension shall be considered a violation of probation.

4 **21. Random Drug Screening**

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

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

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

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

5 Failure to comply with any such suspension shall be considered a violation of probation.

6 **22. Ethics Course**

7 Within sixty (60) calendar days of the effective date of this decision, Respondent shall, at
8 his own expense, enroll in a course in ethics approved in advance by the board or its designee.

9 Failure to initiate the course during the first year of probation, and complete it within the
10 second year of probation, shall be considered a violation of probation.

11 Respondent shall submit a certificate of completion to the board or its designee within five
12 (5) days after completing the course.

13 **23. Community Services Program**

14 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
15 board or its designee, for prior approval, a community service program in which Respondent shall
16 provide free health-care related services on a regular basis to a community or charitable facility or
17 agency for at least one hundred (100) hours per year for the first three (3) years of the probation
18 (300 hours total). Within thirty (30) days of board approval thereof, Respondent shall submit
19 documentation to the board demonstrating commencement of the community service program. A
20 record of this notification must be provided to the board upon request. Respondent shall report on
21 progress with the community service program in the quarterly reports. Failure to timely submit,
22 commence, or comply with the program shall be considered a violation of probation.

23 **24. License Surrender While on Probation/Suspension**

24 Following the effective date of this decision, including during the period of suspension,
25 should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the
26 terms and conditions of probation, Respondent may tender his license to the board for surrender.
27 The board or its designee shall have the discretion whether to grant the request for surrender or
28 take any other action it deems appropriate and reasonable.

1 Upon formal acceptance of the surrender of the license, Respondent will no longer be
2 subject to the terms and conditions of probation. This surrender constitutes a record of discipline
3 and shall become a part of the Respondent's license history with the board.

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

9 **25. Violation of Probation**

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

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

22 **26. Completion of Probation**

23 Upon written notice by the board or its designee indicating successful completion of
24 probation, Respondent's license will be fully restored.

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26 ///

27 ///

28 ///

Exhibit A

Accusation No. 3813

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3813

11 **DAREK TERRELL JONES**
12 **P.O. Box 51999**
13 **Pacific Grove, CA 93950**

A C C U S A T I O N

14 **Pharmacist License No. RPH 59702**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

20 2. On or about July 3, 2007, the Board of Pharmacy issued Pharmacist License No. RPH
21 59702 to Darek Terrell Jones (Respondent). The License was in full force and effect at all times
22 relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

23 JURISDICTION

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

27 ///

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

5 8. California Code of Regulations, title 16, section 1770, states:

6 “For the purpose of denial, suspension, or revocation of a personal or facility license
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
10 licensee or registrant to perform the functions authorized by her license or registration in a
11 manner consistent with the public health, safety, or welfare.”

12 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
13 drug or dangerous device except upon the prescription of an authorized prescriber.

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

16 11. Health and Safety Code section 11170 provides that no person shall prescribe,
17 administer, or furnish a controlled substance for himself or herself.

18 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
19 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
20 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
21 or subterfuge; or (2) by the concealment of a material fact.

22 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
23 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
24 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

25 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any
26 person to use or be under the influence of any controlled substance in Schedule II (Health and
27 Safety Code section 11055), subdivision (c), or any narcotic drug in Schedules III-V, except when
28 administered by or under the direction of an authorized licensee.

- 1 • three (3) blue tablets of **Hydrocodone with APAP 10/650mg**;
- 2 • two (2) white tablets of **Hydrocodone with APAP 10/660mg**;
- 3 • two (2) blue tablets of **Hydrocodone with APAP 10/500mg**;
- 4 • six (6) white tablets of **Carisoprodol 350mg**; and
- 5 • three (3) blue tablets of **Diazepam 10mg**.

6 b. On or about April 8, 2010, Respondent was working at Costco #472 (Salinas).
7 A pharmacy technician also working that day saw Respondent pour **Hydrocodone with APAP**
8 tablets from a stock bottle into his hand, and then place them in his pocket. When Respondent
9 was confronted by a manager and a witness and asked to empty his pockets, one pocket contained
10 approximately five (5) to eight (8) tablets of yellow **Hydrocodone with APAP 10/325mg** and
11 approximately twenty (20) white tablets of **Soma (Carisoprodol 350mg)**. When the manager
12 sought to confiscate the drugs for investigation purposes, Respondent picked up all 5-8 of the
13 **Hydrocodone with APAP** tablets, put them in his mouth, and swallowed them. Respondent later
14 denied that there ever had been any **Hydrocodone** tablets, or that he had swallowed them.

15 c. The pharmacy inventory for that day showed a loss/shortage of six (6) tablets of
16 **Hydrocodone with APAP 10/325mg** and twenty (20) tablets of **Carisoprodol 350mg**.

17 d. On or about April 9, 2010, Costco # 472 (Salinas) submitted a Report of Theft
18 or Loss of Controlled Substances (DEA Form 106) to the DEA, and to the Board, listing a theft of
19 six (6) tablets of **Hydrocodone with APAP 10/325mg**, attributed to Respondent's pilferage.

20 e. On or about April 15, 2010, Costco # 131 (Sand City) submitted a Report of
21 Theft or Loss of Controlled Substances (DEA Form 106) to the DEA, and to the Board, listing a
22 theft of 141 tablets **Diazepam 10mg (Valium)**, 33 tablets **Hydrocodone with APAP 5/500mg**,
23 21 tablets **Hydrocodone with APAP 5/325mg**, 19 tablets **Hydrocodone with APAP 10/325mg**,
24 64 tablets **Lorazepam 1mg (Ativan)**, 11 tablets **Hydrocodone with APAP 10/500mg**, 14 tablets
25 **Hydrocodone with APAP 10/325mg**, 10 tablets **Hydrocodone with APAP 7.5/325mg**, 16
26 tablets **Phentermine 37.5mg (Fastin/Adipex)**, 17 tablets **Zolpidem (Ambien)**, 21 tablets
27 **Hydrocodone with Ibuprofen**, and 143 tablets **Carisoprodol 350mg (Soma)**.

28 ///

1 f. On or about April 30, 2010, Costco Pharmacy reported to the Board that on or
2 about April 13, 2010 Respondent had been terminated from Costco for theft of prescription drugs.

3 g. On or about May 11, 2010, Respondent admitted to Board Inspector(s) that he
4 had used "bad judgment" during the incident leading to his arrest. In response to a question about
5 whether he had an addiction problem, Respondent admitted that "at one point" his drug use may
6 have gotten "out of hand," though he felt that as of that date he was moving past that.

7 FIRST CAUSE FOR DISCIPLINE

8 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

9 27. Respondent is subject to discipline under section 4301(f) of the Code, in that
10 Respondent, as described in paragraphs 24 to 26 above, committed acts involving moral
11 turpitude, dishonesty, fraud, deceit, or corruption.

12 SECOND CAUSE FOR DISCIPLINE

13 (Self-Administration of Controlled Substance(s))

14 28. Respondent is subject to discipline under section 4301(h) of the Code, and/or 4301(j)
15 and/or (o) of the Code and/or Health and Safety Code section 11170, in that Respondent, as
16 described in paragraphs 24 to 26 above, administered controlled substance(s) to himself.

17 THIRD CAUSE FOR DISCIPLINE

18 (Furnishing of Controlled Substance(s))

19 29. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
20 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described
21 in paragraphs 24 to 26 above, furnished to himself or another without a valid prescription, and/or
22 conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

23 FOURTH CAUSE FOR DISCIPLINE

24 (Possession of Controlled Substance(s))

25 30. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
26 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described
27 in paragraphs 24 to 26 above, possessed, conspired to possess, and/or assisted in or abetted
28 possession of, a controlled substance, without a prescription.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

3 31. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
4 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
5 24 to 26 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
6 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Unlawful Use of Narcotic Controlled Substances)

9 32. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
10 and/or Health and Safety Code section 11550, in that, as described in paragraphs 24 to 26 above,
11 Respondent used or was under the influence of, conspired to use/be under the influence of, and/or
12 assisted in or abetted use/being under the influence of, certain identified controlled substances,
13 not administered by or under the direction of an authorized licensee.

14 SEVENTH CAUSE FOR DISCIPLINE

15 (Conviction of Substantially Related Crime(s))

16 33. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
17 Code, for conviction of a substantially related crime, in that on or about June 28, 2010, in the
18 criminal case *People v. Jones, Darek Terrell*, Case No. SS100631A in Monterey County Superior
19 Court, Respondent was convicted of violating Vehicle Code section 23152(a) (Driving Under the
20 Influence of Alcohol and/or Drugs), a misdemeanor, as follows:

21 a. On or about April 12, 2010, based on the conduct described in paragraph 26.a.
22 above, Respondent was charged in Case No. SS100631A with violating: (1) Health and Safety
23 Code section 11352(a) (Transportation for Purposes of Sale of Narcotic Controlled Substance), a
24 felony; (2) Health and Safety Code section 11350(a) (Illegal Possession of Controlled Substance),
25 a felony; (3) Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol and/or
26 Drugs), a misdemeanor; (4) Health and Safety Code section 11550(b) (Using or Being Under the
27 Influence of a Controlled Substance), a misdemeanor; and (5) Business and Professions Code
28 section 4060 (Possession of Drug Without Prescription), a misdemeanor.

