

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

In the Matter of the Accusation Against:

Case No. 3914

CYNTHIA KOIKE
P.O. Box 881343
Los Angeles, CA 90009

Pharmacist License No. RPH 33336

Respondent.

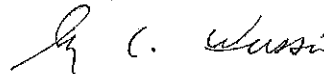
DECISION AND ORDER

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 October 15, 2012.

It is so ORDERED on September 14, 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**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3914

12 **CYNTHIA K. KOIKE**
13 **PO Box 881343**
Los Angeles, CA 90009
14 **Pharmacist License No. RPH 33336**

OAH No. L-2011120718

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

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

24 2. Respondent Cynthia K. Koike (Respondent) is represented in this proceeding by
25 attorney Herbert L. Weinberg, Esq., whose address is:

26 Mcguire Woods, LLP
1800 Century Park East, 8th Floor
27 Los Angeles, CA 90067
28

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 3914.

4 10. Respondent agrees that her Pharmacist License is subject to discipline and she agrees
5 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 CONTINGENCY

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

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

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 33336 issued to Respondent
3 Cynthia K. Koike (Respondent) is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for four (4) years on the following terms and conditions.

5 1. **Obey All Laws**

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

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

- 9 • an arrest or issuance of a criminal complaint for violation of any provision of the
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
11 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
17 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
18 for any drug, device or controlled substance.

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

20 2. **Report to the Board**

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

1 **3. Interview with the Board**

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

7 **4. Cooperate with Board Staff**

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

11 **5. Continuing Education**

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

14 **6. Notice to Employers**

15 During the period of probation, Respondent shall notify all present and prospective
16 employers of the decision in case number 3914 and the terms, conditions and restrictions imposed
17 on Respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 3914, and terms and conditions imposed
23 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
24 supervisor(s) submit timely acknowledgment(s) to the board.

25 If Respondent works for or is employed by or through a pharmacy employment service,
26 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
27 licensed by the board of the terms and conditions of the decision in case number 3914 in advance
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1 of the Respondent commencing work at each licensed entity. A record of this notification must
2 be provided to the board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of Respondent undertaking any new employment by or through a pharmacy
5 employment service, Respondent shall cause her direct supervisor with the pharmacy
6 employment service to report to the board in writing acknowledging that she has read the decision
7 in case number 3914 and the terms and conditions imposed thereby. It shall be Respondent's
8 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
9 acknowledgment(s) to the board.

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

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

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

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

23 **8. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, Respondent shall pay to the
25 board its costs of investigation and prosecution in the amount of \$3830.00 within one year of the
26 effective date of the Board's decision approving this Stipulated Settlement. There shall be no
27 deviation from this schedule absent prior written approval by the board or its designee. Failure to
28 pay costs by the deadline(s) as directed shall be considered a violation of probation.

1 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
2 to reimburse the board its costs of investigation and prosecution.

3 **9. Probation Monitoring Costs**

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

8 **10. Status of License**

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

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

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

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

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

3 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
4 **Employment**

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

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

12 **13. Tolling of Probation**

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

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

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

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

7 **14. Violation of Probation**

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

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

20 **15. Completion of Probation**

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

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

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

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

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

7 Probation shall be automatically extended until Respondent successfully completes the
8 PRP. Any person terminated from the PRP program shall be automatically suspended by the
9 board. Respondent may not resume the practice of pharmacy until notified by the board in
10 writing.

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

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

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

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

1 unless otherwise specified in this order.

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

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

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

11 **17. Random Drug Screening**

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

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

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

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

12 Subject to the above restrictions, Respondent may continue to own or hold an interest in
13 any licensed premises in which she 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 **18. Abstain from Drugs and Alcohol Use**

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

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1 **19. Prescription Coordination and Monitoring of Prescription Use**

2 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
3 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
4 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the
5 Respondent's history with the use of controlled substances, and/or dangerous drugs and who will
6 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
7 substances or mood-altering drugs. The approved practitioner shall be provided with a copy of
8 the board's Accusation and decision. A record of this notification must be provided to the board
9 upon request. Respondent shall sign a release authorizing the practitioner to communicate with
10 the board about Respondent's treatment(s). The coordinating physician, nurse practitioner,
11 physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of
12 probation regarding Respondent's compliance with this condition. If any substances considered
13 addictive have been prescribed, the report shall identify a program for the time limited use of any
14 such substances. The board may require that the single coordinating physician, nurse practitioner,
15 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in
16 addictive medicine. Should Respondent, for any reason, cease supervision by the approved
17 practitioner, Respondent shall notify the board immediately and, within thirty (30) days of
18 ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician
19 assistant, or psychiatrist of Respondent's choice to the board or its designee for its prior approval.
20 Failure to timely submit the selected practitioner or replacement practitioner to the board for
21 approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered
22 a violation of probation.

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

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

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

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

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

17 **20. Community Services Program**

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

1 **21. 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 her 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 her
12 supervisor submit notification to the board in writing stating that the supervisor has read the
13 decision in case number 3914 and is familiar with the required level of supervision as determined
14 by the board or its designee. It shall be the Respondent's responsibility to ensure that her
15 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
16 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 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
20 acknowledgement(s) to the board. Respondent shall have her 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 case number 3914 and is familiar
23 with the level of supervision as determined by the board. Respondent shall not practice pharmacy
24 and her license shall be automatically suspended until the board or its designee approves a new
25 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
26 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 she 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 **22. 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 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
25 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
26 business, firm, partnership, or corporation licensed by the board. If Respondent currently owns or
27 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
28 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently

1 or hereinafter licensed by the board, Respondent may continue to serve in such capacity or hold
2 that interest, but only to the extent of that position or interest as of the effective date of this
3 decision. Violation of this restriction shall be considered a violation of probation.

4 **23. Ethics Course**

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

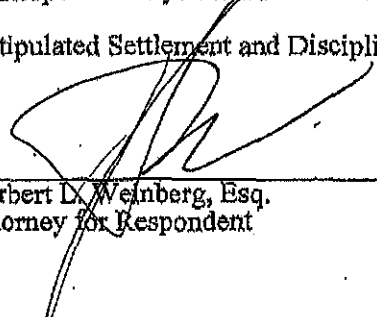
9 Respondent shall submit a certificate of completion to the board or its designee within five
10 days after completing the course.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Herbert L. Weinberg, Esq. I understand the stipulation and the
14 effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and
15 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
16 Decision and Order of the Board of Pharmacy.

17
18 DATED: 7/31/12 
19 CYNTHIA K. KOIKE
20 Respondent

21 I have read and fully discussed with Respondent Cynthia K. Koike the terms and conditions
22 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
23 its form and content.

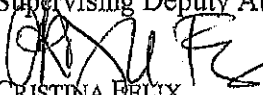
24 DATED: 8/1/12 
25 Herbert L. Weinberg, Esq.
26 Attorney for Respondent
27
28

ENDORSEMENT

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

DATED: 08/02/2012 Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General


CRISTINA BELIX
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3914

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 3914

12 **CYNTHIA K. KOIKE**
PO Box 881343
13 Los Angeles, CA 90009

ACCUSATION

14 Pharmacist License No. RPH 33336

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 28, 1979, the Board issued Pharmacist License No. RPH 33336
22 to Cynthia K. Koike (Respondent). The Pharmacist License was in full force and effect at all
23 times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

27 ///

28 ///

STATUTORY PROVISIONS

1
2 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
3 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
4 action during the period within which the license may be renewed, restored, reissued or
5 reinstated.

6 5. Section 4059 states:

7 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
8 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
9 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
10 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
11 3640.7.

12

13 "(g) Nothing in this section shall be construed as permitting a licensed physical therapist
14 to dispense or furnish a dangerous device without a prescription of a physician, dentist, podiatrist,
15 optometrist, or veterinarian. . . ."

16 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
17 revoked."

18 7. Section 4301 states, in pertinent part:

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

22

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

26

27 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violation of or conspiring to violate any provision or term of this chapter

1 [Pharmacy Law, §§ 4000, et seq.] or of the applicable federal and state laws and regulations
2 governing pharmacy, including regulations established by the board or by any other state or
3 federal regulatory agency. . . ."

4 **REGULATORY PROVISION**

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 his license or registration in a manner
11 consistent with the public health, safety, or welfare."

12 **COST RECOVERY**

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

17 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

18 10. Fioricet is a brand name for the combination of butalbital, acetaminophen and
19 caffeine and is designated a dangerous drug pursuant to section 4022.

20 11. Fiorinal is a brand name for the combination of butalbital, aspirin and caffeine. It is a
21 Schedule III controlled substance pursuant to Health and Safety Code section 11056, and is
22 designated a dangerous drug pursuant to section 4022.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Unlawful Furnishing)**

25 12. Respondent is subject to disciplinary action under sections 4300, 4301,
26 subdivision (o), and section 4059, in that while employed as a pharmacist at Kaiser Permanente
27 Pharmacy, 25965 South Normandie, Harbor City, California (Kaiser Pharmacy), Respondent
28

1 diverted controlled substances and dangerous drugs from pharmacy stores. The circumstances are
2 as follows:

3 a. In December 2009, the Internal Pharmacy Audit and Compliance Department of
4 Kaiser Pharmacy reviewed inventory regarding the possible loss or diversion of Fioricet.

5 b. On or about February 18, 2010, Kaiser Pharmacy filed a Report of Theft or Loss of
6 Controlled Substances, DEA Form 106, for 300 tablets of generic Fioricet missing from Kaiser
7 Pharmacy inventory as of January 15, 2010.

8 c. On or about January 13, 2010 through on or about March 12, 2010, Kaiser Pharmacy
9 documented 386 tablets of Fioricet missing from Kaiser Pharmacy inventory.

10 d. Video retrieved from the Kaiser Pharmacy on or between March 6 and 10, 2010,
11 recorded Respondent removing Fioricet and Fiorinal from Kaiser Pharmacy medication bins in a
12 drawer in the pharmacy as follows:

13

Date	Time	Drug	Tablets/Bottle
3/6/2010	5:40 PM	Fioricet	tablets in hand
3/6/2010	11:18 PM	Fioricet	bottle in sweater
3/9/2010	11:58 AM	Fiorinal	tablets in hand
3/9/2010	5:23 PM	Fiorinal	tablets in hand
3/10/2010	3:15 PM	Fiorinal	tablets in hand

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18 e. On or about March 25, 2010, Kaiser Pharmacy filed a Report of Theft or Loss of
19 Controlled Substances, DEA Form 106, for 217 Fioricet tablets and 40 Fiorinal tablets missing
20 from Kaiser Pharmacy inventory due to employee pilferage.

21 **SECOND CAUSE FOR DISCIPLINE**

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

23 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
24 subdivision (f), in that while employed as a pharmacist at Kaiser Pharmacy, Respondent
25 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption when she
26 diverted drugs from pharmacy stores. Complainant refers to and by this reference incorporates
27 the allegations set forth above in paragraph 12, subparagraphs a – e, inclusive, as though set forth
28 fully.

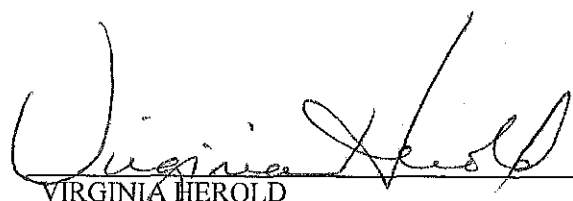
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PRAYER

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

1. Revoking or suspending Pharmacist License No. RPH 33336, issued to Cynthia K. Koike;
2. Ordering Cynthia K. Koike to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/7/11



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

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