



California State Board of Pharmacy
1625 N. Market Blvd, N219, Sacramento, CA 95834
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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

2015 JUN -8 AM 10:17

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: J Chris Mitsuoka	Case No. AC4335
Address of Record: 361 Panay Street Morro Bay, CA 93442	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC4335, I hereby request to surrender my license, License No. RPH28914. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

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

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

[Signature]
Applicant's Signature
[Signature]
Executive Officer's Approval

6/8/2015
Date
6/8/15
Date

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

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

In the Matter of the Accusation Against:

Case No. 4335

J. CHRIS MITSUOKA
361 Panay Street
Morro Bay, CA 93442

Pharmacist License No. RPH 28914

Respondent.

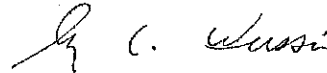
DECISION AND ORDER

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 June 18, 2014.

It is so ORDERED on June 11, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
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Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4335

13 **J. CHRIS MITSUOKA**
361 Panay Street
Morro Bay, CA 93442

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Pharmacist License No. RPH 28914**

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 Anahita S. Crawford, Deputy Attorney
23 General.

24 2. Respondent J. Chris Mitsuoka ("Respondent") is represented in this proceeding by
25 attorney Norman V. Prior, whose address is: 350 University Avenue, Suite 200
26 Sacramento, CA 95825

27 3. On or about July 17, 1974, the Board of Pharmacy issued Pharmacist License No.
28 RPH 28914 to J. Chris Mitsuoka (Respondent). The Pharmacist License was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 4335 and will expire on
2 August 31, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 4335 was filed before the Board of Pharmacy (Board), Department
5 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on April 18, 2013.
7 Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 4335 is attached as exhibit A and incorporated herein by
9 reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 4335. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 4335.

27 10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
28 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

23
24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 28914 issued to Respondent
25 J. Chris Mitsuoka (Respondent) is revoked. However, the revocation is stayed and Respondent is
26 placed on probation for five (5) years on the following terms and conditions.

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1. Suspension

As part of probation, respondent is suspended from the practice of pharmacy for 30 days beginning the effective date of this decision.

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

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

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

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

2. Tolling of Suspension

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

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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 of
5 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
12 substances laws
- 13 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
14 criminal complaint, information or indictment
- 15 • a conviction of any crime
- 16 • discipline, citation, or other administrative action filed by any state or federal agency
17 which involves respondent's Pharmacist license or which is related to the practice of
18 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
19 for any drug, device or controlled substance.

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

21 **4. Report to the Board**

22 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
23 designee. The report shall be made either in person or in writing, as directed. Among other
24 requirements, respondent shall state in each report under penalty of perjury whether there has
25 been compliance with all the terms and conditions of probation. Failure to submit timely reports
26 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
27 in submission of reports as directed may be added to the total period of probation. Moreover, if
28

1 the final probation report is not made as directed, probation shall be automatically extended until
2 such time as the final report is made and accepted by the board.

3 **5. Interview with the Board**

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

9 **6. Cooperate with Board Staff**

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

13 **7. Continuing Education**

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

16 **8. Notice to Employers**

17 During the period of probation, respondent shall notify all present and prospective
18 employers of the decision in case number 4335 and the terms, conditions and restrictions imposed
19 on respondent by the decision, as follows:

20 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
21 respondent undertaking any new employment, respondent shall cause his direct supervisor,
22 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
23 tenure of employment) and owner to report to the board in writing acknowledging that the listed
24 individual(s) has/have read the decision in case number 4335, and terms and conditions imposed
25 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
26 submit timely acknowledgment(s) to the board.

27 If respondent works for or is employed by or through a pharmacy employment service,
28 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity

1 licensed by the board of the terms and conditions of the decision in case number 4335 in advance
2 of the respondent commencing work at each licensed entity. A record of this notification must be
3 provided to the board upon request.

4 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
5 (15) days of respondent undertaking any new employment by or through a pharmacy employment
6 service, respondent shall cause his direct supervisor with the pharmacy employment service to
7 report to the board in writing acknowledging that he has read the decision in case number 4335
8 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
9 that his employer(s) and/or supervisor(s) submit timely 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 **9. No Ownership of Licensed Premises**

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

25 **10. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
26 **Designated Representative-in-Charge, or Serving as a Consultant**

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

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

3 **11. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$10,000. Respondent shall make
6 said payments as designated by the Board.

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

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

12 **12. Probation Monitoring Costs**

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

17 **13. Status of License**

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

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

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

26 Following the effective date of this decision, should respondent cease practice due to
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
28 respondent may tender his license to the board for surrender. The board or its designee shall have

1 the discretion whether to grant the request for surrender or take any other action it deems
2 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
3 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
4 record of discipline and shall become a part of the respondent's license history with the board.

5 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
6 the board within ten (10) days of notification by the board that the surrender is accepted.

7 Respondent may not reapply for any license from the board for three (3) years from the effective
8 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
9 of the date the application for that license is submitted to the board, including any outstanding
10 costs.

11 **15. Notification of a Change in Name, Residence Address, Mailing Address or**
12 **Employment**

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

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

20 **16. Tolling of Probation**

21 Except during periods of suspension, respondent shall, at all times while on probation, be
22 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
23 month during which this minimum is not met shall toll the period of probation, i.e., the period of
24 probation shall be extended by one month for each month during which this minimum is not met.
25 During any such period of tolling of probation, respondent must nonetheless comply with all
26 terms and conditions of probation.

27 Should respondent, regardless of residency, for any reason (including vacation) cease
28 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,

1 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
2 must further notify the board in writing within ten (10) days of the resumption of practice. Any
3 failure to provide such notification(s) shall be considered a violation of probation.

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

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

12 **17. Violation of Probation**

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

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

25 **18. Completion of Probation**

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

28 //

1 19. Community Services Program


2 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
3 board or its designee, for prior approval, a community service program in which respondent shall
4 provide free health-care related services on a regular basis to a community or charitable facility or
5 agency for at least 200 hours during the term of probation. Within thirty (30) days of board
6 approval thereof, respondent shall submit documentation to the board demonstrating
7 commencement of the community service program. A record of this notification must be
8 provided to the board upon request. Respondent shall report on progress with the community
9 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
10 program shall be considered a violation of probation.

11 ACCEPTANCE

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

17
18 DATED: 1/24/2014 
19 J. CHRIS MITSUOKA
20 Respondent

21 I have read and fully discussed with Respondent J. Chris Mitsuoka 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: 1/24/14 
25 Norman V. Prior
26 Attorney for Respondent

27
28

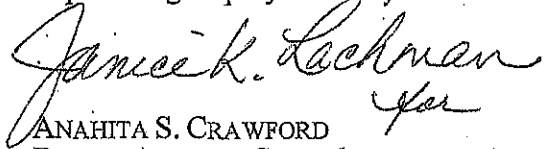
ENDORSEMENT

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

Dated: 1/24/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



ANAHITA S. CRAWFORD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4335

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
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Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4335

12 **J Chris Mitsuoka**

13 361 Panay Street
14 Morro Bay, California 93442

A C C U S A T I O N

15 **Pharmacist License No. RPH 28914**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about July 17, 1974, the Board of Pharmacy (Board), Department of Consumer
23 Affairs issued Pharmacist License Number RPH 28914 to J. Chris Mitsuoka (Respondent). The
24 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on August 31, 2013, unless renewed.

26 ///

27 ///

28 ///

1 JURISDICTION

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

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

9 5. Code section 4304 states that "[t]he board may deny, revoke, or suspend any license
10 issued pursuant to Section 4161 for any violation of this chapter or for any violation of Part 5
11 (commencing with Section 109875) of Division 104 of the Health and Safety Code."

12
13 STATUTORY PROVISIONS

14 6. Code section 4301 states in relevant part, that:

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

19 (b) Incompetence

20 (c) Gross Negligence

21

22 (j) The violation of any of the statutes of this state, of any another, or of
23 the United States regulating controlled substances or dangerous drugs.

24

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

7. Section 4059 of the Code states:

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

1 dangerous device, except upon the prescription of a physician, dentist, podiatrist,
2 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

3 8. Section 4059.5 of the Code states, in part:

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

9 (b) A dangerous drug or dangerous device transferred, sold, or delivered
10 to a person within this state shall be transferred, sold, or delivered only to an entity
11 licensed by the board, to a manufacturer, or to an ultimate user or the ultimate user's
12 agent.

13 9. Section 4126.5 of the Code states, in part:

14 (a) A pharmacy may furnish dangerous drugs only to the following:

15 (1) A wholesaler owned or under common control by the wholesaler from
16 whom the dangerous drug was acquired.

17 (2) The pharmaceutical manufacturer from whom the dangerous drug was
18 acquired.

19 (3) A licensed wholesaler acting as a reverse distributor.

20 (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a
21 dangerous drug that could result in the denial of the health care. A pharmacy
22 furnishing dangerous pursuant to this paragraph may only furnish a quantity sufficient
23 to alleviate the temporary shortage.

24 (5) A patient or to another pharmacy pursuant to a prescription or as
25 otherwise authorized by law.

26 (6) A health care provider that is not a pharmacy but is authorized to
27 purchase dangerous drugs.

28 (7) To another pharmacy under common control.

10. Section 4160 of the Code states that (a) a person may not act as a wholesaler of any
dangerous drug or dangerous device unless he or she has obtained a license from the board.

11. Section 4022 of the Code states

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

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

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

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

5 12. Section 4043 of the Code states:

6 (a) "Wholesaler" means and includes a person who acts as a wholesale
7 merchant, broker, jobber, customs broker, reverse distributor, agent, or a nonresident
8 wholesaler, who sells for resale, or negotiates for distribution, or takes possession of,
any drug or device included in Section 4022. Unless otherwise authorized by law, a
wholesaler may not store, warehouse, or authorize the storage or warehousing of
drugs with any person or at any location not licensed by the board.

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Unlawful Furnishing of Dangerous Drugs and Controlled Substances)**

16 *Pharmacy Law Violations*

17 14. Respondent has subjected his license to disciplinary action under Code section 4301,
18 subdivision (j), on the grounds of unprofessional conduct, in that Respondent violated the laws
19 and provisions of the Code regulating dangerous drugs and controlled substances as set forth in
20 section 4059, subdivision (a) (furnishing dangerous drugs and controlled substances without a
21 prescription), section 4059.5, subdivision (a) (dangerous drugs and devices ordered by unlicensed
22 entity, delivered to unlicensed premises and/or not received by pharmacist), section 4059.5,
23 subdivision (b) (dangerous drugs and devices sold/transferred/delivered to non-board licensed
24 entities, manufacturer or ultimate user), and section 4126.5, subdivision (a) (furnishing dangerous
25 drugs to non-approved entities), as follows:

26 15. On or about and between 1993 to 2003, Respondent, as a pharmacist-in-charge of
27 Sacramento County Primary Care Pharmacy, illegally furnished bulk dangerous drugs, including
28 controlled substances to an increasing numbers of unlicensed remote locations during the period

1 that he was supervising the pharmacy. The drugs were ordered by persons not verified as being
2 authorized to do so. The locations to which the drugs were furnished did not have a license to
3 obtain, receive, or maintain the drugs. The drugs provided were not for patient-specific
4 prescriptions. The wholesale purchase value of bulk drugs furnished illegally to such locations
5 was over \$50,000,000.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unlawful Furnishing of Dangerous Drugs and Controlled Substances)**

8 *State and Federal Violations*

9 16. Respondent has subjected his license to disciplinary action under Code section 4301
10 subdivision (o) and subdivision (j) for violation of Health and Safety Code section 11158
11 (dispensing controlled substances without prescription) and section 11159 (lack of proper records
12 for dispensing of controlled substances) as well as and related to federal law sections 21 USC 842
13 (a)(2), 21 CFR 1301.11, 1301.12 (illegal distribution and furnishing of controlled substances), as
14 follows:

15 17. On or about and between 1993 to 2003, Respondent allowed the distribution and
16 furnishing of controlled substances without legal authority, without required inventory records
17 and without a patient specific prescription or physician order. Schedule II drugs were transferred
18 without a required DEA 222 form and in quantities in excess what is allowed by law.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unlicensed Activity)**

21 18. Respondent has subjected his license to disciplinary action under Code section 4301,
22 subdivision (o), for unprofessional conduct, in that Respondent violated the drug wholesaler
23 licensing requirements as set forth in section 4160, subdivision (a) (acting as a wholesaler without
24 a license), by furnishing drugs without having a wholesaler license, as further set forth in
25 paragraphs 15, above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 19. Respondent has subjected his license to disciplinary action under Code section 4301
4 subdivisions (b), on the grounds of unprofessional conduct, in that Respondent failed to act in a
5 competent manner when distributing or furnishing dangerous drugs and controlled substances that
6 were under his supervision, as further set forth in paragraphs 14-18, above.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Gross Negligence)**

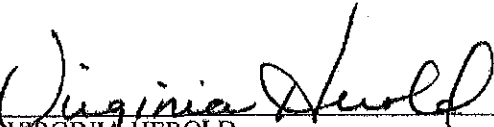
9 20. Respondent has subjected his license to disciplinary action under Code section 4301
10 subdivisions (c), on the grounds of unprofessional conduct, in that Respondent committed acts of
11 gross negligence when distributing or furnishing dangerous drugs and controlled substances that
12 were under his supervision, as set further forth in paragraphs 14-18, above.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacist License Number RPH 28914, issued to J. Chris
17 Mitsuoka;
- 18 2. Ordering J. Chris Mitsuoka to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/4/13


24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

SA2012106632