

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

In the Matter of the Accusation Against:

RANDALL A. OROSCO

1075 Mill Street
Selma, CA 93662

Original Pharmacist No. RPH 49260

Respondent.

Case No. 4379

OAH No. 2012120251

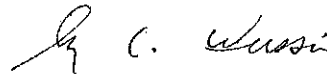
DECISION AND ORDER

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 25, 2013.

It is so ORDERED on September 25, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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11 In the Matter of the Accusation Against:

Case No. 4379

12 **RANDALL A. OROSCO**
13 **1075 Mill Street**
Selma, CA 93662

OAH No. 2012120251

14 **Original Pharmacist No. RPH 49260**

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 Karen R. Denvir, Deputy Attorney
23 General.

24 2. Respondent Randall Orosco (Respondent) is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 18, 1997, the Board of Pharmacy issued Original
27 Pharmacist Number RPH 49260 to Randall A. Orosco (Respondent). The license will expire,
28 unless renewed on August 31, 2014.

1 **JURISDICTION**

2 3. Accusation No. 4379 was filed before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
4 statutorily required documents were properly served on Respondent on November 14, 2012.
5 Respondent timely filed his Notice of Defense contesting the Accusation.

6 4. A copy of Accusation No. 4379 is attached as exhibit A and incorporated herein by
7 reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read, and understands the charges and allegations in
10 Accusation No. 4379. Respondent has also carefully read, and understands the effects of this
11 Stipulated Settlement and Disciplinary Order.

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

19 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
20 every right set forth above.

21 **CULPABILITY**

22 8. Respondent admits the truth of each and every charge and allegation in Accusation
23 No. 4379.

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

26 **CONTINGENCY**

27 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
28 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may

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

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

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

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

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 49260 issued to
22 Respondent Randall A. Orosco is revoked. However, the revocation is stayed and Respondent is
23 placed on probation for five (5) years on the following terms and conditions.

24 1. **Obey All Laws**

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

26 Respondent shall report any of the following occurrences to the board, in writing, within
27 seventy-two (72) hours of such occurrence:
28

1 an arrest or issuance of a criminal complaint for violation of any provision of the
2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
3 substances laws
4 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
5 criminal complaint, information or indictment
6 a conviction of any crime
7 discipline, citation, or other administrative action filed by any state or federal agency
8 which involves respondent's original pharmacist license or which is related to the
9 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
10 or charging for any drug, device or controlled substance.

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

12 **2. Report to the Board**

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

21 **3. Interview with the Board**

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

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1 **4. Cooperate with Board Staff**

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

5 **5. Continuing Education**

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

8 **6. Notice to Employers**

9 During the period of probation, respondent shall notify all present and prospective
10 employers of the decision in case number 4379 and the terms, conditions and restrictions imposed
11 on respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 respondent undertaking any new employment, respondent shall cause his direct supervisor,
14 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
15 tenure of employment) and owner to report to the board in writing acknowledging that the listed
16 individual(s) has/have read the decision in case number 4379, and terms and conditions imposed
17 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
18 submit timely acknowledgment(s) to the board.

19 If respondent works for or is employed by or through a pharmacy employment service,
20 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
21 licensed by the board of the terms and conditions of the decision in case number 4379 in advance
22 of the respondent commencing work at each licensed entity. A record of this notification must be
23 provided to the board upon request.

24 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
25 (15) days of respondent undertaking any new employment by or through a pharmacy employment
26 service, respondent shall cause his direct supervisor with the pharmacy employment service to
27 report to the board in writing acknowledging that he has read the decision in case number 4379
28

1 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
2 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

16 **8. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, respondent shall pay to the
18 board its costs of investigation and prosecution in the amount of \$4,795.00. Respondent may
19 make payments on a payment plan approved by the Board.

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

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

25 **9. Probation Monitoring Costs**

26 Respondent shall pay any costs associated with probation monitoring as determined by the
27 board each and every year of probation. Such costs shall be payable to the board on a schedule as
28

1 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
2 be considered a violation of probation.

3 **10. Status of License**

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

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

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

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

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

25 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
26 **Employment**

27 Respondent shall notify the board in writing within ten (10) days of any change of
28 employment. Said notification shall include the reasons for leaving, the address of the new

1 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
2 shall further notify the board in writing within ten (10) days of a change in name, residence
3 address, mailing address, or phone number.

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

6 13. Tolling of Probation

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

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

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

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

26 14. Violation of Probation

27 If a respondent has not complied with any term or condition of probation, the board shall
28 have continuing jurisdiction over respondent, and probation shall automatically be extended, until

1 all terms and conditions have been satisfied or the board has taken other action as deemed
2 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
3 to impose the penalty that was stayed.

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

11 **15. Completion of Probation**

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

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

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

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

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

26 Probation shall be automatically extended until respondent successfully completes the PRP.
27 Any person terminated from the PRP program shall be automatically suspended by the board.
28 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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

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

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

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

24 **17. Random Drug Screening**

25 Respondent, at his own expense, shall participate in random testing, including but not
26 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
27 screening program as directed by the board or its designee. Respondent may be required to
28 participate in testing for the entire probation period and the frequency of testing will be

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

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

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

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

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

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

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

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

14 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
16 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
17 history of use of controlled substances and who will coordinate and monitor any prescriptions for
18 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved
19 practitioner shall be provided with a copy of the board's Accusation and decision. A record of
20 this notification must be provided to the board upon request. Respondent shall sign a release
21 authorizing the practitioner to communicate with the board about respondent's treatment(s). The
22 coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the
23 board on a quarterly basis for the duration of probation regarding respondent's compliance with
24 this condition. If any substances considered addictive have been prescribed, the report shall
25 identify a program for the time limited use of any such substances. The board may require that
26 the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a
27 specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent,
28 for any reason, cease supervision by the approved practitioner, respondent shall notify the board

1 immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement
2 physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the
3 board or its designee for its prior approval. Failure to timely submit the selected practitioner or
4 replacement practitioner to the board for approval, or to ensure the required reporting thereby on
5 the quarterly reports, shall be considered a violation of probation.

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

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

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

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

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

27 **20. Community Services Program**

28 Within sixty (60) days of the effective date of this decision, respondent shall submit to the

1 board or its designee, for prior approval, a community service program in which respondent shall
2 provide free health-care related services on a regular basis to a community or charitable facility or
3 agency for at least 50 hours per year of probation. Within thirty (30) days of board approval
4 thereof, respondent shall submit documentation to the board demonstrating commencement of the
5 community service program. A record of this notification must be provided to the board upon
6 request. Respondent shall report on progress with the community service program in the
7 quarterly reports. Failure to timely submit, commence, or comply with the program shall be
8 considered a violation of probation.

9 **21. Supervised Practice**

10 During the period of probation, respondent shall practice only under the supervision of a
11 licensed pharmacist not on probation with the board. Upon and after the effective date of this
12 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
13 until a supervisor is approved by the board or its designee. The supervision shall be, as required
14 by the board or its designee, either:

15 Continuous – At least 75% of a work week

16 Substantial - At least 50% of a work week

17 Partial - At least 25% of a work week

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

19 Within thirty (30) days of the effective date of this decision, respondent shall have his
20 supervisor submit notification to the board in writing stating that the supervisor has read the
21 decision in case number 4379 and is familiar with the required level of supervision as determined
22 by the board or its designee. It shall be the respondent's responsibility to ensure that his
23 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
24 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
25 acknowledgements to the board shall be considered a violation of probation.

26 If respondent changes employment, it shall be the respondent's responsibility to ensure that
27 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
28 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment

1 commences, submit notification to the board in writing stating the direct supervisor and
2 pharmacist-in-charge have read the decision in case number 4379 and is familiar with the level of
3 supervision as determined by the board. Respondent shall not practice pharmacy and his license
4 shall be automatically suspended until the board or its designee approves a new supervisor.
5 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
6 acknowledgements to the board shall be considered a violation of probation.

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

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 which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
11 or 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 Subject to the above restrictions, respondent may continue to own or hold an interest in any
21 licensed premises in which he holds an interest at the time this decision becomes effective unless
22 otherwise specified in this order.

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

24 **22. No Ownership of Licensed Premises**

25 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
26 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
27 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
28 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)

1 days following the effective date of this decision and shall immediately thereafter provide written
2 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
3 documentation thereof 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 enroll
6 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
7 Failure to initiate the course during the first year of probation, and complete it within the second
8 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
12
13 **ACCEPTANCE**

14 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
15 stipulation and the effect it will have on my Original Pharmacist License. I enter into this
16 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
17 to be bound by the Decision and Order of the Board of Pharmacy.

18
19 DATED: _____

8/1/13



RANDALL A. ORUSCO
Respondent

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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: 8/5/13

Respectfully submitted,

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



KAREN R. DENVIR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4379

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2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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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. 4379

12 **RANDALL A. OROSCO**
1075 Mill Street
13 Selma, CA 93662

ACCUSATION

14 **Original Pharmacist No. RPH 49260**

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.

21 2. On or about March 18, 1997, the Board of Pharmacy issued Original Pharmacist
22 Number RPH 49260 to Randall A. Orosco (Respondent). The license will expire, unless renewed
23 on August 31, 2014.

24 **JURISDICTION**

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

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4. Section 4300 of the Code states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

....

5. Section 4301 of the Code states, in pertinent part:

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

....

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

....

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

....

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

3

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

8

9 6. Section 4060 of the Code states:

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

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

24 7. Section 4327 of the Code states:

25 Any person who, while on duty, sells, dispenses or compounds any drug while under the
26 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

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7. Section 11350(a) of the Health and Safety Code states, in pertinent part:
 Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

....

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

COST RECOVERY

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

DRUGS

10. Codeine with acetaminophen is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e), and is a dangerous drug pursuant to Code section 4022.

11. Carisoprodol is a dangerous drug pursuant to Code section 4022.¹

12. Tramadol is a dangerous drug pursuant to Code section 4022.

FIRST CAUSE FOR DISCIPLINE

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

¹ In 2012, Carisoprodol was designated as a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision (d)(17).

1 13. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that
2 he engaged in acts involving moral turpitude, dishonesty, fraud, deceit, or corruption in that he
3 stole dangerous drugs and controlled substances on multiple occasions. The circumstances are as
4 follows:

5 14. From approximately November of 2008 through approximately August of 2011, on
6 multiple occasions, all dates which are not specifically known, while employed as a pharmacist at
7 PharmAmerica Pharmacy in Fresno, Respondent stole carisoprodol, a dangerous drug. A
8 subsequent pharmacy drug audit showed a loss of over 6000 tablets.

9 15. From approximately February of 2010 through approximately August of 2011, on
10 multiple occasions, all dates which are not specifically known, while employed as a pharmacist at
11 PharmAmerica Pharmacy, Respondent stole tramadol, a dangerous drug. A subsequent pharmacy
12 drug audit showed a loss of over 7,700 tablets.

13 16. Per Respondent's admissions, on two occasions, the exact dates which were
14 unknown, between June 2011 and August 2011, while employed as a pharmacist at
15 PharmAmerica Pharmacy, he stole acetaminophen with codeine, a schedule III controlled
16 substance and narcotic and dangerous drug. A subsequent pharmacy audit indicated a loss of as
17 much as 258 tablets from the pharmacy from April 2011 to October 2011.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unlawful Possession of a Controlled Substance)**

20 17. Respondent is subject to disciplinary action under section 4301, subdivision (j), in
21 that he violated the statutes of this state regulating controlled substances and dangerous drugs.
22 The circumstances are as follows:

23 18. Per Respondent's admissions, on two occasions, the exact dates which were
24 unknown, between June 2011 and August 2011, he stole acetaminophen with codeine, a schedule
25 III controlled substance and narcotic and dangerous drug, and was in possession of the medication
26 without a prescription, in violation of Business and Professions Code section 4060 and Health and
27 Safety Code section 11350, subdivision (a).

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unlawful Self-Administration of a Controlled Substance)**

3 19. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
4 that he unlawfully self administered a controlled substance. The circumstances are as follows:

5 20. Per Respondent's admissions, on two occasions, the exact dates which were
6 unknown, between June 2011 and August 2011, he illegally self-administered acetaminophen
7 with codeine, a schedule III controlled substance and narcotic and dangerous drug.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Working as a Pharmacist While Under the Influence)**

10 21. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
11 that he violated or attempted to violate the statutes of this state governing pharmacy. The
12 circumstances are as follows:

13 22. Per Respondent's admissions, on two occasions, the exact dates which were
14 unknown, between November 2008 and August 2011, while working as a licensed pharmacist,
15 Respondent self-administered dangerous drugs and controlled substances, including carisoprodol,
16 tramadol, and acetaminophen with codeine. As a result, he was under the influence of one or
17 more of these dangerous drugs on multiple occasions when he was involved with the preparation,
18 compounding, dispensing, and sale of prescriptions and providing patient care as a licensed
19 pharmacist, in violation of Business and Professions Code section 4327.

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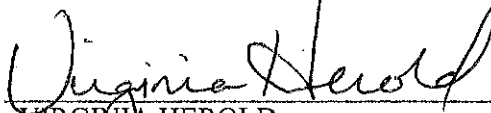
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PRAYER

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

1. Revoking or suspending Original Pharmacist Number RPH 49260, issued to Randall A. Orosco.;
2. Ordering Randall A. Orosco to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 11/2/12


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

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