

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

In the Matter of the Accusation Against:

ANTONIO PULIDO
1848 W. 263rd Street
Lomita, CA 90717
Pharmacist License No. RPH 61643

Respondent.

Case No. 4467

OAH No. 2014110850

DECISION AND ORDER

Pursuant to the Board of Pharmacy's action on September 30, 2015, the attached Stipulated Settlement and Disciplinary Order was adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 9, 2015.

It is so ORDERED on October 9, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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7

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **ANTONIO PULIDO**
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13 **Lomita, CA 90717**
Pharmacist License No. RPH 61643

14 Respondent.

Case No. 4467

OAH No. 2014110850

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 **PARTIES**

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

25 2. Respondent Antonio Pulido ("Respondent") is represented in this proceeding by
26 attorney Tracy Green, Esq., whose address is: Green & Associates, 800 West 6th Street, Suite
27 450, Los Angeles, CA 90017.
28

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in First
3 Amended Accusation No. 4467.

4 10. Respondent agrees that his Pharmacist License is subject to discipline and he 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 his counsel. By signing the stipulation, Respondent
11 understands and agrees that he may not withdraw his 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 Portable Document Format (PDF) and facsimile
17 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
18 (PDF) and facsimile signatures thereto, shall have the same force and 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:
28

1 **DISCIPLINARY ORDER**

2 **IT IS HEREBY ORDERED** that Pharmacist License No. RPH 61643 issued to
3 Respondent Antonio Pulido is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for five (5) years on the following terms and conditions.

5 1. **Suspension**

6 As part of probation, respondent is suspended from the practice of pharmacy for one year
7 beginning the effective date of this decision.

8 During suspension, respondent shall not enter any pharmacy area or any portion of the
9 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
10 drugs 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 devices or controlled substances.

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

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

21 2. **Obey All Laws**

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

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

- 25 • an arrest or issuance of a criminal complaint for violation of any provision of the
26 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
27 substances laws

- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 2 criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state or federal agency
- 5 which involves respondent's Pharmacist License or which is related to the practice of
- 6 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 7 for any drug, device or controlled substance.

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

9 **3. Report to the Board**

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

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

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

28 **6. Continuing Education**

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

3 **7. Notice to Employers**

4 During the period of probation, respondent shall notify all present and prospective
5 employers of the decision in case number 4467 and the terms, conditions and restrictions imposed
6 on respondent by the decision, as follows:

7 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
8 respondent undertaking any new employment, respondent shall cause his direct supervisor,
9 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
10 tenure of employment) and owner to report to the board in writing acknowledging that the listed
11 individual(s) has/have read the decision in case number 4467, and terms and conditions imposed
12 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
13 submit timely acknowledgment(s) to the board.

14 If respondent works for or is employed by or through a pharmacy employment service,
15 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
16 licensed by the board of the terms and conditions of the decision in case number 4467 in advance
17 of the respondent commencing work at each licensed entity. A record of this notification must be
18 provided to the board upon request.

19 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
20 (15) days of respondent undertaking any new employment by or through a pharmacy employment
21 service, respondent shall cause his direct supervisor with the pharmacy employment service to
22 report to the board in writing acknowledging that he has read the decision in case number 4467
23 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
24 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

28

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

5 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
6 **Designated Representative-in-Charge, or Serving as a Consultant**

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

11 **9. Reimbursement of Board Costs**

12 As a condition precedent to successful completion of probation, respondent shall pay to the
13 board its costs of investigation and prosecution in the amount of \$13,515.00. Respondent
14 understands and agrees that said costs are not dischargeable in bankruptcy.

15 Respondent may make payments in a plan approved by the Board or its designee. There
16 shall be no deviation from this schedule absent prior written approval by the Board or its
17 designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
18 probation:

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

21 **10. Probation Monitoring Costs**

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

26 **11. Status of License**

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

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

8 **12. License Surrender While on Probation/Suspension**

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

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

22 **13. Notification of a Change in Name, Residence Address, Mailing Address or** 23 **Employment**

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

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

3 **14. Tolling of Probation**

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

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

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

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

23 **15. Violation of Probation**

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

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

8 **16. Completion of Probation**

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

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

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

15 **17. Restricted Practice**

16 Respondent's practice of pharmacy shall be prohibited from compounding drug products for
17 the first two years of probation. Respondent shall submit proof satisfactory to the board of
18 compliance with this term of probation.

19 **18. Mental Health Examination**

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

28 If the evaluator recommends, and the board or its designee directs, respondent shall

1 undergo psychotherapy. Within thirty (30) days of notification by the board that a
2 recommendation for psychotherapy has been accepted, respondent shall submit to the board or its
3 designee, for prior approval, the name and qualification of a licensed mental health practitioner of
4 respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall
5 submit documentation to the board demonstrating the commencement of psychotherapy with the
6 approved licensed mental health practitioner. Should respondent, for any reason, cease treatment
7 with the approved licensed mental health practitioner, respondent shall notify the board
8 immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a
9 replacement licensed mental health practitioner of respondent's choice to the board for its prior
10 approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to
11 the board demonstrating the commencement of psychotherapy with the approved replacement.
12 Failure to comply with any requirement or deadline stated by this paragraph shall be considered a
13 violation of probation.

14 Upon approval of the initial or any subsequent licensed mental health practitioner,
15 respondent shall undergo and continue treatment with that therapist, at respondent's own expense,
16 until the therapist recommends in writing to the board, and the board or its designee agrees by
17 way of a written notification to respondent, that no further psychotherapy is necessary. Upon
18 receipt of such recommendation from the treating therapist, and before determining whether to
19 accept or reject said recommendation, the board or its designee may require respondent to
20 undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or
21 board-approved evaluator. If the approved evaluator recommends that respondent continue
22 psychotherapy, the board or its designee may require respondent to continue psychotherapy.

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

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

7 **19. Psychotherapy**

8 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
9 board or its designee, for prior approval, the name and qualifications of a licensed mental health
10 practitioner of respondent's choice. Within thirty (30) days of approval thereof, respondent shall
11 submit documentation to the board demonstrating the commencement of psychotherapy with the
12 approved licensed mental health practitioner. Should respondent, for any reason, cease treatment
13 with the approved licensed mental health practitioner, respondent shall notify the board
14 immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement
15 psychotherapist or licensed mental health practitioner of respondent's choice to the board for its
16 prior approval. Within thirty (30) days of approval thereof, respondent shall submit
17 documentation to the board demonstrating the commencement of psychotherapy with the
18 approved replacement. Failure to comply with any requirement or deadline stated by this
19 paragraph shall be considered a violation of probation.

20 Upon approval of the initial or any subsequent licensed mental health practitioner,
21 respondent shall undergo and continue treatment with that therapist, at respondent's own expense,
22 until the therapist recommends in writing to the board, and the board or its designee agrees by
23 way of a written notification to respondent, that no further psychotherapy is necessary. Upon
24 receipt of such recommendation from the treating therapist, and before determining whether to
25 accept or reject said recommendation, the board or its designee may require respondent to
26 undergo, at respondent's own expense, a mental health evaluation by a board-appointed or board-
27 approved psychiatrist or psychologist. If the approved evaluator recommends that respondent
28 continue psychotherapy, the board or its designee may require respondent to continue

1 psychotherapy.

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

8 If at any time the treating therapist determines that respondent cannot practice safely or
9 independently, the therapist shall notify the board immediately by telephone and follow up by
10 written letter within three (3) working days. Upon notification from the board or its designee of
11 this determination, respondent shall be automatically suspended and shall not resume practice
12 until notified by the board that practice may be resumed.

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
22 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
23 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
24 designated 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 **20. Random Drug Screening**

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

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

26 During suspension, respondent shall not engage in any activity that requires the
27 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
28 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a

1 designated representative for any entity licensed by the board.

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

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

6 **21. Abstain from Drugs and Alcohol Use**

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

18 **22. Prescription Coordination and Monitoring of Prescription Use**

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

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

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

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

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

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

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

5 **23. Community Services Program**

6 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
7 board or its designee, for prior approval, a community service program in which respondent shall
8 provide free health-care related services on a regular basis to a community or charitable facility or
9 agency for at least 250 hours during the term of probation. Within thirty (30) days of board
10 approval thereof, respondent shall submit documentation to the board demonstrating
11 commencement of the community service program. A record of this notification must be
12 provided to the board upon request. Respondent shall report on progress with the community
13 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
14 program shall be considered a violation of probation.

15 **24. Remedial Education**

16 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
17 board or its designee, for prior approval, an appropriate program of remedial education related to
18 compounding and pharmacy law. The program of remedial education shall consist of at least 20
19 hours, which shall be completed within the first two years of the effective date of this decision, at
20 respondent's own expense. 50% of the remedial education must be done in person. All remedial
21 education shall be in addition to, and shall not be credited toward, continuing education (CE)
22 courses used for license renewal purposes.

23 Failure to timely submit or complete the approved remedial education shall be considered a
24 violation of probation. The period of probation will be automatically extended until such
25 remedial education is successfully completed and written proof, in a form acceptable to the board,
26 is provided to the board or its designee.

27 Following the completion of each course, the board or its designee may require the
28 respondent, at his own expense, to take an approved examination to test the respondent's

1 knowledge of the course. If the respondent does not achieve a passing score on the examination,
2 this failure shall be considered a violation of probation. Any such examination failure shall
3 require respondent to take another course approved by the board in the same subject area.

4 **25. Supervised Practice**

5 During the period of probation, respondent shall practice only under the supervision of a
6 licensed pharmacist not on probation with the board. Upon and after the effective date of this
7 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
8 until a supervisor is approved by the board or its designee. The supervision shall be, as required
9 by the board or its designee, either;

10 Continuous – At least 75% of a work week

11 Substantial - At least 50% of a work week

12 Partial - At least 25% of a work week

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

14 Within thirty (30) days of the effective date of this decision, respondent shall have his
15 supervisor submit notification to the board in writing stating that the supervisor has read the
16 decision in case number 4467 and is familiar with the required level of supervision as determined
17 by the board or its designee. It shall be the respondent's responsibility to ensure that his
18 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
19 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
20 acknowledgements to the board shall be considered a violation of probation.

21 If respondent changes employment, it shall be the respondent's responsibility to ensure that
22 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
23 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
24 commences, submit notification to the board in writing stating the direct supervisor and
25 pharmacist-in-charge have read the decision in case number 4467 and is familiar with the level of
26 supervision as determined by the board. Respondent shall not practice pharmacy and his license
27 shall be automatically suspended until the board or its designee approves a new supervisor.
28 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely

1 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

19 **26. No Supervision of Ancillary Personnel**

20 During the period of probation, respondent shall not supervise any ancillary personnel,
21 including, but not limited to, pharmacy technicians or designated representatives in any entity
22 licensed by the board.

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

24 **27. 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 **28. Criminal Probation/Parole Reports**

5 Respondent shall provide a copy of the conditions of any criminal probation/parole to the
6 board, in writing, within ten (10) days of the issuance or modification of those conditions.
7 Respondent shall provide the name of his probation/parole officer to the board, in writing, within
8 ten (10) days after that officer is designated or a replacement for that officer is designated.
9 Respondent shall provide a copy of all criminal probation/parole reports to the board within ten
10 (10) days after respondent receives a copy of such a report. Failure to timely make any of the
11 submissions required hereby shall be considered a violation of probation.

12 **29. Tolling of Suspension**

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

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

25 **30. Ethics Course**

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

1 year of probation, is a violation of probation.

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

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
6 discussed it with my attorney, Tracy Green, Esq.. I understand the stipulation and the effect it
7 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
8 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
9 of the Board of Pharmacy.

10

11 DATED: 8/14/15

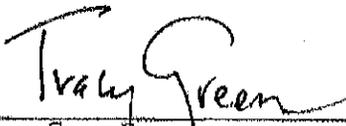


12 ANTONIO PULIDO
Respondent

13 I have read and fully discussed with Respondent Antonio Pulido the terms and conditions
14 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
15 its form and content.

16

17 DATED: 8/14/15



18 Tracy Green, Esq.
Attorney for Respondent

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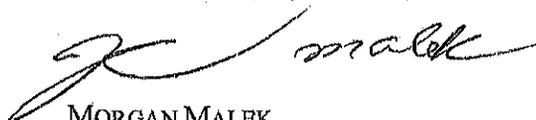
ENDORSEMENT

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

Dated: 8/19/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General



MORGAN MALEK
Deputy Attorney General
Attorneys for Complainant

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Stipulation.rtf

Exhibit A

First Amended Accusation No. 4467

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
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3 GEOFF WARD
Deputy Attorney General
4 State Bar No. 246437
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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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. 4467

12 **ANTONIO PULIDO**
1848 E. 263rd Street
13 Lomita, CA 90717

FIRST AMENDED ACCUSATION

14 Pharmacist License No. RPH 61643

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about October 8, 2008, the Board issued Pharmacist License No. RPH 61643 to
21 Antonio Pulido (Respondent). The Pharmacist License was in full force and effect at all times
22 relevant to the charges brought herein and will expire on May 31, 2014, unless renewed.

23 **JURISDICTION**

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

26 ///

27 ///

28 ///

1 **BUSINESS AND PROFESSIONS CODE STATUTES**

2 4. Section 490 in pertinent part authorizes boards to discipline licensees for criminal
3 convictions:

4 "(a) In addition to any other action that a board is permitted to take
5 against a licensee, a board may suspend or revoke a license on the ground that the
6 licensee has been convicted of a crime, if the crime is substantially related to the
7 qualifications, functions, or duties of the business or profession for which the license
8 was issued.

9 (b) Notwithstanding any other provision of law, a board may exercise any
10 authority to discipline a licensee for conviction of a crime that is independent of the
11 authority granted under subdivision (a) only if the crime is substantially related to the
12 qualifications, functions, or duties of the business or profession for which the
13 licensee's license was issued.

14 (c) A conviction within the meaning of this section means a plea or
15 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
16 a board is permitted to take following the establishment of a conviction may be taken
17 when the time for appeal has elapsed, or the judgment of conviction has been
18 affirmed on appeal, or when an order granting probation is made suspending the
19 imposition of sentence, irrespective of a subsequent order under the provisions of
20 Section 1203.4 of the Penal Code."

21 5. Section 4022 defines dangerous drugs:

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

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

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

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

29 6. Section 4059 subdivision (a) prohibits the furnishing of dangerous drugs without a
30 prescription:

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

36 7. Section 4060 prohibits the possession of controlled substances without a prescription:

37 "No person shall possess any controlled substance, except that furnished

1 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
2 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
3 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
4 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
5 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
6 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
7 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
8 shall not apply to the possession of any controlled substance by a manufacturer,
9 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
10 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
11 physician assistant, when in stock in containers correctly labeled with the name and
12 address of the supplier or producer.

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

8. Section 4067 in pertinent part prohibits the dispensing or furnishing of dangerous drugs on the internet in certain circumstances:

"(a) No person or entity shall dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state without a prescription issued pursuant to a good faith prior examination of a human or animal for whom the prescription is meant if the person or entity either knew or reasonably should have known that the prescription was not issued pursuant to a good faith prior examination of a human or animal, or if the person or entity did not act in accordance with Section 1761 of Title 16 of the California Code of Regulations.

...

(f) For the purposes of this section, 'good faith prior examination' includes the requirements for a physician and surgeon in Section 2242 and the requirements for a veterinarian in Section 2032.1 of Title 16 of the California Code of Regulations."

9. Section 4110 subdivision (a) prohibits conducting a pharmacy without a license:

"(a) No person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred."

10. Section 4127.1 in pertinent part prohibits compounding injectable sterile drug products without a license:

"(a) A pharmacy shall not compound injectable sterile drug products in this state unless the pharmacy has obtained a license from the board pursuant to this section. The license shall be renewed annually and is not transferable.

....

"(e) The reconstitution of a sterile powder shall not require a license pursuant to this section if both of the following are met:

1 “(1) The sterile powder was obtained from a manufacturer.

2 “(2) The drug is reconstituted for administration to patients by a
3 health care professional licensed to administer drugs by injection pursuant to this
4 division.”

5 11. Section 4300 subdivision (a) authorizes the Board to suspend or revoke licenses.

6 12. Section 4301 authorizes the Board to discipline licensees for unprofessional conduct
7 and in pertinent part lists certain types of unprofessional conduct:

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

12 ...

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

16 The violation of any of the statutes of this state, or any other state, or of the United
17 States regulating controlled substances and dangerous drugs.

18 ...

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

21

22 (i) The conviction of a crime substantially related to the qualifications,
23 functions, and duties of a licensee under this chapter. The record of conviction of a
24 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
25 States Code regulating controlled substances or of a violation of the statutes of this
26 state regulating controlled substances or dangerous drugs shall be conclusive
27 evidence of unprofessional conduct. In all other cases, the record of conviction shall
28 be conclusive evidence only of the fact that the conviction occurred. The board may
inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
dismissing the accusation, information, or indictment.

29 ...

30 (o) Violating or attempting to violate, directly or indirectly, or assisting
31 in or abetting the violation of or conspiring to violate any provision or term of this
32 chapter or of the applicable federal and state laws and regulations governing
33 pharmacy, including regulations established by the board or by any other state or
34 federal regulatory agency.”

1 13. Section 4306.5 in pertinent part lists additional examples of unprofessional conduct:

2 "Unprofessional conduct for a pharmacist may include any of the
3 following:

4 "(a) Acts or omissions that involve, in whole or in part, the inappropriate
5 exercise of his or her education, training, or experience as a pharmacist, whether or
6 not the act or omission arises in the course of the practice of pharmacy or the
7 ownership, management, administration, or operation of a pharmacy or other entity
8 licensed by the board.

9 (b) Acts or omissions that involve, in whole or in part, the failure to
10 exercise or implement his or her best professional judgment or corresponding
11 responsibility with regard to the dispensing or furnishing of controlled substances,
12 dangerous drugs, or dangerous devices, or with regard to the provision of services."

13 **HEALTH AND SAFETY CODE STATUTES**

14 14. Health and Safety Code section 11056 lists the controlled substances on Schedule III
15 of the California Schedule of Controlled Substances:

16 "(a) The controlled substances listed in this section are included in
17 Schedule III.

18 ...

19 (f) Anabolic steroids and chorionic gonadotropin. Any material,
20 compound, mixture, or preparation containing chorionic gonadotropin or an anabolic
21 steroid (excluding anabolic steroid products listed in the "Table of Exempt Anabolic
22 Steroid Products" (Section 1308.34 of Title 21 of the Code of Federal Regulations),
23 as exempt from the federal Controlled Substances Act (Section 801 and following of
24 Title 21 of the United States Code)), including, but not limited to, the following:

25

26 (15) Methandrostenolone.

27 (16) Methenolone.

28

(30) Testosterone. . . ."

15. Health and Safety Code section 11152 provides "No person shall write, issue, fill,
20 compound, or dispense a prescription that does not conform to this division [Division 10, the
21 Uniform Controlled Substances Act]."

16. Health and Safety Code section 11377 subdivision (a) prohibits the possession of
22 certain controlled substances without a prescription:

23 "Except as authorized by law and as otherwise provided in subdivision
24 (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
25 Division 2 of the Business and Professions Code, every person who possesses any
26 controlled substance which is (1) classified in Schedule III, IV, or V, and which is not
27 a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs
28 (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (1) of

1 subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision
2 (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055,
3 unless upon the prescription of a physician, dentist, podiatrist, or veterinarian,
4 licensed to practice in this state, shall be punished by imprisonment in a county jail
5 for a period of not more than one year or pursuant to subdivision (h) of Section 1170
6 of the Penal Code.”

7 ///

8 17. Health and Safety Code section 11379 subdivision (a) in part prohibits the import,
9 selling, or furnishing of certain controlled substances:

10 “Except as otherwise provided in subdivision (b) and in Article 7
11 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and
12 Professions Code, every person who transports, imports into this state, sells,
13 furnishes, administers, or gives away, or offers to transport, import into this state, sell,
14 furnish, administer, or give away, or attempts to import into this state or transport any
15 controlled substance which is (1) classified in Schedule III, IV, or V and which is not
16 a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision
17 (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of
18 subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056,
19 (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5)
20 specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or
21 specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055,
22 unless upon the prescription of a physician, dentist, podiatrist, or veterinarian,
23 licensed to practice in this state, shall be punished by imprisonment pursuant to
24 subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four
25 years.”

26 18. Health and Safety Code section 11379.6 subdivision (a), prohibits the unauthorized
27 compounding or preparation of controlled substances:

28 “Except as otherwise provided by law, every person who manufactures,
compounds, converts, produces, derives, processes, or prepares, either directly or
indirectly by chemical extraction or independently by means of chemical synthesis,
any controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058
shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the
Penal Code for three, five, or seven years and by a fine not exceeding fifty thousand
dollars (\$50,000).”

BOARD OF PHARMACY REGULATIONS

19. California Code of Regulations, title 16, section 1770 provides criteria for when a
conviction is substantially related to the practice of pharmacy:

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

1 **COST RECOVERY**

2 20. Section 125.3 provides that the Board may request the administrative law judge to
3 direct a licensee found to have committed a violation or violations of the licensing act to pay a
4 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Conviction of a Substantially Related Crime)**

7 21. Respondent is subject to disciplinary action under sections 490 (substantially-related
8 conviction) and 4301 subdivision (l) (substantially-related conviction) in conjunction with
9 California Code of Regulations, title 16, section 1770 (criteria for substantially related
10 conviction) on the grounds of unprofessional conduct, because on or about December 20, 2011,
11 Respondent was convicted on one misdemeanor count possession of controlled substances, a
12 crime substantially related to the qualifications, functions or duties of a pharmacist. The
13 circumstances are as follows:

14 a. On or about December 20, 2011, in the criminal proceeding entitled *People v.*
15 *Antonio Pulido* (Super. Ct. Los Angeles County, 2011, No. YA082080), Respondent pled nolo
16 contendere and was convicted of one misdemeanor count of violating Health and Safety Code
17 section Health and Safety Code section 11377 subdivision (a) (possession of a controlled
18 substance). The Court sentenced him to one year's probation.

19 b. The circumstances underlying the conviction are that on or about May 17, 2011, a
20 joint task force of Los Angeles County Sheriff's narcotics officers, United States Postal Service
21 inspectors, and a United States Immigration, Customs, and Enforcement special agent executed a
22 search warrant at Respondent's residence located at 1848 263rd Street, in the City of Lomita,
23 California. The basis for the search warrant was the discovery of a package of human growth
24 hormone shipped by mail from China to the Respondent. Immediately after Respondent accepted
25 delivery of the package of human growth hormone, the task force presented him with the search
26 warrant and searched his house. They found in his bedroom a scale, pill counters, and a hoard of
27 controlled substances: 50 milliliters of methenolone, 10 milliliters of testosterone, 125 vials of
28 hygetropin (human growth hormone), 24.9 grams of testosterone, and 525 capsules of

1 methandrostenolone.

2 After being read and waiving his Miranda rights, Respondent was asked if he knew why the
3 police were there, to which he responded: "I will be totally honest with you, I have been
4 purchasing, making and selling several types of anabolic steroids over the internet." Respondent
5 then gave a written statement in which he admitted that from 2010 to 2010, he repeatedly ordered
6 powders and vials of human growth hormone from China, compounded the powders into
7 injectable liquids and oral capsules, marketed them over the internet to customers in other states,
8 sold them to customers who did not have a prescription for those drugs, arranged for payments to
9 be made to a bank in Thailand, and shipped the compounded drugs over the mail. He later
10 admitted that the compounding was done in his bedroom; admitted to knowing that his ordering,
11 compounding and selling injectable anabolic steroids was illegal; admitted that he had sold his
12 compounded drugs to 10 customers on approximately 40 occasions from November 2010 to May
13 2011; and admitted to administering injectable testosterone for which he did not have a
14 prescription to himself about 30 different times.

15 22. Respondent's deliberate violation of controlled substances laws, his compounding of
16 injectible drugs in his bedroom, and his sale and distribution of these homemade drugs to
17 consumers evidences to a substantial degree his present or potential unfitness to perform the
18 functions authorized by his pharmacist license in a manner consistent with the public health,
19 safety, or welfare

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Furnishing Dangerous Drugs without Prescriptions)**

22 23. Respondent is subject to disciplinary action for unprofessional conduct under section
23 4301 subdivision (o) (unprofessional conduct by violating state or federal laws or regulations
24 governing pharmacy) for violating section 4059 subdivision (a) (furnishing of dangerous drugs
25 without a prescription) by selling homemade dangerous drugs -- including anabolic steroids,
26 methandrostenolone, methenolone, testosterone -- without prescriptions on approximately 40
27 occasions to 10 different consumers from November 2010 to May 2011.

28 24. Paragraph 21 and its subparagraphs are realleged and incorporated in full into this

1 cause for discipline.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Transportation, Importing and Selling Controlled Substances without Prescriptions)**

4 25. Respondent is subject to disciplinary action for unprofessional conduct under section
5 4301 subdivision (j) (violating state or federal laws or regulations governing controlled
6 substances) for violating Health and Safety Code section 11379 subdivision (a) (prohibiting
7 import, sale, furnishing of Schedule III controlled substances) by importing dangerous drugs from
8 China, compounding and manufacturing them into injectable compounds in his home, marketing
9 them over the internet, and selling them to consumer without valid prescriptions.

10 26. Paragraph 21 and its subparagraphs are realleged and incorporated in full into this
11 cause for discipline.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Unlicensed Practice of Pharmacy)**

14 27. Respondent is subject to disciplinary action for unprofessional conduct under section
15 4301 subdivision (o) (violating state or federal laws or regulations governing pharmacy) for
16 violating section 4110 subdivision (a) (pharmacies must be licensed) by practicing pharmacy at
17 his house, a location not licensed by the Board. By his own admission, from November 2010 to
18 May 2011, Respondent made and compounded dangerous drugs from compounds he obtained
19 illegally from China.

20 28. Paragraph 21 and its subparagraphs are realleged and incorporated in full into this
21 cause for discipline.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Unlicensed Sterile Compounding)**

24 29. Respondent is subject to disciplinary action for unprofessional conduct under sections
25 4300 and 4301 subdivision (o) (violating state or federal laws or regulations governing pharmacy)
26 by violating section 4127.1 subdivision (a) (compounding without a state license) and Health and
27 Safety Code section 11379.6 subdivision (a) (unauthorized compounding or preparation of
28 controlled substances) by compounding and preparing injectable drugs -- including anabolic

1 steroids, methandrostenolone, methenolone, and testosterone, Schedule III controlled substances -
2 - out of his home, a location not licensed by the Board.

3 30. Paragraph 21 and its subparagraphs are realleged and incorporated in full into this
4 cause for discipline.

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **(Dispensing Via the Internet)**

7 31. Respondent is subject to disciplinary action for unprofessional conduct under section
8 4301 subdivision (o) (violating state pharmacy law) for violating section 4067 subdivision (a)
9 (dispensing or furnishing of dangerous drugs on the internet without a valid prescription) in that
10 from November 2010 to May 2011, Respondent sold anabolic steroids through orders obtained
11 through the internet to consumers who he knew lacked valid prescriptions.

12 32. Paragraph 21 and its subparagraphs are realleged and incorporated in full into this
13 cause for discipline.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Possession of Controlled Substances without Prescriptions)**

16 33. Respondent is subject to disciplinary action for unprofessional conduct under section
17 4301 subdivisions (j) (violating state controlled substances law) and (o) (violating state pharmacy
18 law) for violating sections 4060 (prohibiting possessing controlled substances without a
19 prescription) and Health and Safety Code section 11377 subdivision (a) (same) for possessing
20 anabolic steroids, methandrostenolone, methenolone, and testosterone, Schedule III controlled
21 substances without a valid prescription.

22 34. Paragraph 21 and its subparagraphs are realleged and incorporated in full into this
23 cause for discipline.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Misuse of Education and Failure to Exercise Professional Judgment)**

26 35. Respondent is subject to disciplinary action for unprofessional conduct under sections
27 4301 and 4306.5 because from November 2010 to May 2011 Respondent used the education he
28 received in pharmacy school to compound and dispense, furnish, and sell illegal anabolic steroids.

1 In doing so, he failed to exercise or implement his best professional judgment or corresponding
2 responsibility with regard to the dispensing or furnishing of these controlled substances.

3 36. Paragraph 21 and its subparagraphs are realleged and incorporated in full into this
4 cause for discipline.

5 **NINTH CAUSE FOR DISCIPLINE**

6 **(Knowingly Making a False Statements of Fact)**

7 37. Respondent is subject to disciplinary action for unprofessional conduct under sections
8 4301, subdivision (g), in that Respondent knowingly made a false statement of fact to the Board
9 by failing to disclose his December 20, 2011 conviction (possession of controlled substances) on
10 his renewal application for licensure. The circumstances are as follows: On or about March 19,
11 2012, Respondent submitted a renewal application for Pharmacist License No. RPH 61643. On
12 the renewal application, Respondent checked the box "H", answering "NO", under penalty of
13 perjury, to the inquiry "Since you last renewed your license, have you had any license discipline
14 by a government agency or other disciplinary body; or, have you been convicted of any crime in
15 any state, the USA and its territories, military court or a foreign country?" Paragraph 21 and its
16 subparagraphs are realleged and incorporated in full into this cause for discipline.

17 **TENTH CAUSE FOR DISCIPLINE**

18 **(Act Involving Dishonesty, Fraud, Deceit, Moral Turpitude or Corruption)**

19 38. Respondent is subject to disciplinary action for unprofessional conduct under sections
20 4301, subdivision (f), in that Respondent knowingly made a false statement of fact to the Board
21 by failing to disclose his December 20, 2011 conviction (possession of controlled substances) on
22 his renewal application for licensure. Paragraphs 21 and 37 are realleged and incorporated in full
23 into this cause for discipline.

24 **ELEVENTH CAUSE FOR DISCIPLINE**

25 **(Violation of State Laws and Regulations Governing Pharmacy)**

26 39. Respondent is subject to disciplinary action for unprofessional conduct under sections
27 4301, subdivision (o) (violating state pharmacy law) for violating section 4301, subdivision (f)
28 (act involving dishonesty and fraud, deceit, moral turpitude or corruption), and subdivision (g)

1 (knowingly making a false statement of fact), in that Respondent knowingly made a false
2 statement of fact to the Board by failing to disclose his December 20, 2011 conviction
3 (possession of controlled substances) on his renewal application for licensure. Paragraphs 21 and
4 37 are realleged and incorporated in full into this cause for discipline.

5 **PRAYER**

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

- 8 1. Revoking or suspending Pharmacist License No. RPH 61643, issued to Antonio
9 Pulido;
- 10 2. Ordering Antonio Pulido to pay the Board the reasonable costs of the investigation
11 and enforcement of this case, pursuant to section 125.3; and
- 12 3. Taking such other and further action as deemed necessary and proper.
- 13
- 14

15 DATED: 7/22/15



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

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