

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

In the Matter of the Accusation Against:

Case No. 4470

**SEAN ALLEN PENDLEY**  
5655 Boyer Lane  
Silver Springs, NV 89429

OAH No. 2013080564

Pharmacist License No. RPH 56229

Respondent.

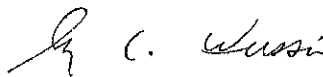
**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 21, 2014.

It is so ORDERED on May 14, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 GREGORY TUSS  
Deputy Attorney General  
4 State Bar Number 200659  
1515 Clay Street, 20th Floor  
5 Post Office Box 70550  
Oakland, California 94612-0550  
6 Telephone: (510) 622-2143  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **SEAN ALLEN PENDLEY**  
13 **Pharmacist License Number RPH 56229,**  
14 Respondent.

Case Number 4470  
OAH Number 2013080564

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15  
16  
17 IT IS STIPULATED AND AGREED by and between the parties to the above-entitled  
18 proceedings that the following matters are true:

19 **PARTIES**

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

24 2. Respondent Sean Allen Pendley is representing himself in this proceeding and has  
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about September 21, 2004, the Board of Pharmacy issued Pharmacist License  
27 Number RPH 56229 to respondent. This pharmacist license was in full force and effect at all

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1 times relevant to the charges brought in Accusation Number 4470 and will expire on March 31,  
2 2014, unless renewed.

3 **JURISDICTION**

4 4. Accusation Number 4470 was filed before the Board and is currently pending against  
5 respondent. The accusation and all other statutorily required documents were properly served on  
6 respondent on January 17, 2013. Respondent timely filed his notice of defense contesting the  
7 accusation.

8 5. A copy of Accusation Number 4470 is attached as exhibit 1 and incorporated by  
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, and understands the charges and allegations in  
12 Accusation Number 4470. Respondent has also carefully read and understands the effects of this  
13 Stipulated Settlement and Disciplinary Order.

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

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

23 **CULPABILITY**

24 9. Respondent understands and agrees that the charges and allegations in Accusation  
25 Number 4470, if proven at a hearing, constitute cause for imposing discipline upon his  
26 Pharmacist License Number RPH 56229.

27 10. For the purpose of resolving the accusation without the expense and uncertainty of  
28 further proceedings, respondent agrees that, at a hearing, complainant could establish a factual

1 basis for the charges in the accusation, and that respondent hereby gives up his right to contest  
2 those charges.

3 11. Respondent agrees that his pharmacist license is subject to discipline and he agrees to  
4 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

5 CONTINGENCY

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

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

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License Number RPH 56229 issued to  
3 respondent Sean Allen Pendley 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. Obey All Laws**

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

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

- 9 • an arrest or issuance of a criminal complaint for violation of any provision of the  
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
11 substances laws;
- 12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
13 criminal complaint, information, or indictment;
- 14 • a conviction of any crime;
- 15 • discipline, citation, or other administrative action filed by any state or federal agency  
16 which involves respondent's pharmacist license or which is related to the practice of  
17 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging  
18 for any drug, device, or controlled substance.

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

20 **2. Report to the Board**

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

1           **3. Interview with the Board**

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

7           **4. Cooperate with Board Staff**

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

11           **5. Continuing Education**

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

14           **6. Notice to Employers**

15           During the period of probation, respondent shall notify all present and prospective  
16 employers of the decision in Case Number 4470 and the terms, conditions, and restrictions  
17 imposed on respondent by the decision, as follows:

18           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
19 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
21 tenure of employment) and owner to report to the Board in writing acknowledging that the listed  
22 individual(s) has/have read the decision in Case Number 4470, and terms and conditions imposed  
23 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
24 submit timely acknowledgment(s) to the Board.

25           If respondent works for or is employed by or through a pharmacy employment service,  
26 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity  
27 licensed by the Board of the terms and conditions of the decision in case number 4470 in advance

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1 of the respondent commencing work at each licensed entity. A record of this notification must be  
2 provided to the Board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
4 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
5 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
6 report to the Board in writing acknowledging that he has read the decision in Case Number 4470  
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
8 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

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

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

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

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the  
24 Board its costs of investigation and prosecution in the amount of \$11,647.00. Respondent shall  
25 make said payments by a payment plan approved by the Board.

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

1 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
2 reimburse the Board its costs of investigation and prosecution.

3 **9. Probation Monitoring Costs**

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

8 **10. Status of License**

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

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

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

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

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

26 Respondent may not reapply for any license from the Board for three (3) years from the effective  
27 date of the surrender. Respondent shall meet all requirements applicable to the license sought as

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1 of the date the application for that license is submitted to the Board, including any outstanding  
2 costs.

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

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

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

12 **13. Tolling of Probation**

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

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

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

27 "Cessation of practice" means any calendar month during which respondent is  
28 not practicing as a pharmacist for at least 40 hours, as defined by Business and

1 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
2 month during which respondent is practicing as a pharmacist for at least 40 hours as a  
3 pharmacist as defined by Business and Professions Code section 4000 et seq.

4 **14. Violation of Probation**

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

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

17 **15. Completion of Probation**

18 Upon written notice by the Board or its designee indicating successful completion of  
19 probation, respondent's license will be fully restored.

20 **16. Suspension**

21 As part of probation, respondent is suspended from the practice of pharmacy for 60 days  
22 beginning the effective date of this decision.

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

1 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
2 and devices or controlled substances.

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

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

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

11 **17. Pharmacists Recovery Program (PRP)**

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

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

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

23 Probation shall be automatically extended until respondent successfully completes the PRP.  
24 Any person terminated from the PRP program shall be automatically suspended by the Board.  
25 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

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

1 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

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

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

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

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

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

21 **18. Random Drug Screening**

22 Respondent, at his own expense, shall participate in random testing, including but not  
23 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
24 screening program as directed by the Board or its designee. Respondent may be required to  
25 participate in testing for the entire probation period and the frequency of testing will be  
26 determined by the Board or its designee. At all times, respondent shall fully cooperate with the  
27 Board or its designee, and shall, when directed, submit to such tests and samples for the detection  
28 of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances as the Board or

1 its designee may direct. Failure to timely submit to testing as directed shall be considered a  
2 violation of probation. Upon request of the Board or its designee, respondent shall provide  
3 documentation from a licensed practitioner that the prescription for a detected drug was  
4 legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely  
5 provide such documentation shall be considered a violation of probation. Any confirmed positive  
6 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a  
7 documented medical treatment shall be considered a violation of probation and shall result in the  
8 automatic suspension of practice of pharmacy by respondent. Respondent may not resume the  
9 practice of pharmacy until notified by the Board in writing.

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

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

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

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

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

27       Respondent shall completely abstain from the possession or use of alcohol, controlled  
28 substances, dangerous drugs, and their associated paraphernalia except when the drugs are

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

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

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

1 Failure to timely submit the selected practitioner or replacement practitioner to the Board for  
2 approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered  
3 a violation of probation.

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

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

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

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

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

25 **21. Supervised Practice**

26 During the period of probation, respondent shall practice only under the supervision of a  
27 licensed pharmacist not on probation with the Board. Upon and after the effective date of this  
28 decision, respondent shall not practice pharmacy and his license shall be automatically suspended

1 until a supervisor is approved by the Board or its designee. The supervision shall be, as required  
2 by the Board or its designee, either:

3 Continuous – At least 75% of a work week

4 Substantial – At least 50% of a work week

5 Partial – At least 25% of a work week

6 Daily Review – Supervisor’s review of probationer’s daily activities within 24 hours

7 Within thirty (30) days of the effective date of this decision, respondent shall have his  
8 supervisor submit notification to the Board in writing stating that the supervisor has read the  
9 decision in Case Number 4470 and is familiar with the required level of supervision as  
10 determined by the Board or its designee. It shall be the respondent’s responsibility to ensure that  
11 his employer(s), pharmacist-in-charge, and/or supervisor(s) submit timely acknowledgement(s) to  
12 the Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
13 acknowledgements to the Board shall be considered a violation of probation.

14 If respondent changes employment, it shall be the respondent’s responsibility to ensure that  
15 his employer(s), pharmacist-in-charge, and/or supervisor(s) submit timely acknowledgement(s) to  
16 the Board. Respondent shall have his new supervisor, within fifteen (15) days after employment  
17 commences, submit notification to the Board in writing stating the direct supervisor and  
18 pharmacist-in-charge have read the decision in Case Number 4470 and is familiar with the level  
19 of supervision as determined by the Board. Respondent shall not practice pharmacy and his  
20 license shall be automatically suspended until the Board or its designee approves a new  
21 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
22 acknowledgements to the Board shall be considered a violation of probation.

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

24 During suspension, respondent shall not enter any pharmacy area or any portion of the  
25 licensed premises of a wholesaler, veterinary food-animal drug retailer, or any other distributor of  
26 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices  
27 or controlled substances are maintained. Respondent shall not practice pharmacy or do any act  
28 involving drug selection, selection of stock, manufacturing, compounding, dispensing, or patient



1 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the  
2 Board, or have access to or control the ordering, manufacturing, or dispensing of dangerous drugs  
3 and controlled substances. Respondent shall not resume practice until notified by the Board.

4 During suspension, respondent shall not engage in any activity that requires the  
5 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
6 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
7 designated representative for any entity licensed by the Board.

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

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

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

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

20 **23. Criminal Probation/Parole Reports**

21 Respondent shall provide a copy of the conditions of any criminal probation/parole to the  
22 Board, in writing, within ten (10) days of the issuance or modification of those conditions.  
23 Respondent shall provide the name of his probation/parole officer to the Board, in writing, within  
24 ten (10) days after that officer is designated or a replacement for that officer is designated.  
25 Respondent shall provide a copy of all criminal probation/parole reports to the Board within ten  
26 (10) days after respondent receives a copy of such a report. Failure to timely make any of the  
27 submissions required hereby shall be considered a violation of probation.

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**24. Ethics Course**

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

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

**ACCEPTANCE**

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my pharmacist license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: \_\_\_\_\_  
SEAN ALLEN PENDLEY  
Respondent

**ENDORSEMENT**

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

Dated: \_\_\_\_\_  
Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

GREGORY TUSS  
Deputy Attorney General  
*Attorneys for Complainant*

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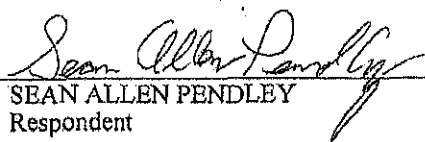
24. **Ethics Course**

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

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


**ACCEPTANCE**

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my pharmacist license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 04/17/2014   
SEAN ALLEN PENDLEY  
Respondent

**ENDORSEMENT**

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

Dated: 4.25.14      Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General  
  
GREGORY TUSS  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit 1**

**Accusation Number 4470**

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 GREGORY TUSS  
Deputy Attorney General  
4 State Bar Number 200659  
1515 Clay Street, 20th Floor  
5 Post Office Box 70550  
Oakland, California 94612-0550  
6 Telephone: (510) 622-2143  
Facsimile: (510) 622-2270  
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:	Case Number 4470
12 <b>SEAN ALLEN PENDLEY</b>	<b>A C C U S A T I O N</b>
13 <b>3300 Broadway</b>	
14 <b>Eureka, California 95501</b>	
15 <b>Pharmacist License Number RPH 56229</b>	
16 Respondent.	

17 Complainant alleges:

18 **PARTIES**

- 19 1. Complainant Virginia Herold brings this Accusation solely in her official capacity as  
20 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
- 21 2. On or about September 21, 2004, the Board issued Pharmacist License Number  
22 RPH 56229 to respondent Sean Allen Pendley. This pharmacist license was in full force and  
23 effect at all times relevant to the charges brought in this Accusation and will expire on March 31,  
24 2014, unless renewed.

25 **JURISDICTION**

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

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1 4. Section 118, subdivision (b), provides:

2 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board  
3 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order  
4 of a court of law, or its surrender without the written consent of the board, shall not, during any  
5 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
6 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
7 provided by law or to enter an order suspending or revoking the license or otherwise taking  
8 disciplinary action against the licensee on any such ground."

9 5. Section 4011 provides:

10 "The board shall administer and enforce this chapter and the Uniform Controlled  
11 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

12 6. Section 4300, subdivision (a), provides:

13 "Every license issued may be suspended or revoked."

14 7. Section 4304 provides:

15 "The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for  
16 any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of  
17 Division 104 of the Health and Safety Code."

18 **STATUTORY PROVISIONS**

19 8. Section 490, subdivision (a), provides:

20 "In addition to any other action that a board is permitted to take against a licensee, a board  
21 may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if  
22 the crime is substantially related to the qualifications, functions, or duties of the business or  
23 profession for which the license was issued."

24 9. Section 4059, subdivision (a), provides, in pertinent part:

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

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1           10. Section 4059.5, subdivision (e), provides:

2           “A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a  
3 person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer  
4 does so in compliance with the laws of this state and of the United States and of the state or  
5 country to which the dangerous drugs or dangerous devices are to be transferred, sold, or  
6 delivered. Compliance with the laws of this state and the United States and of the state or country  
7 to which the dangerous drugs or dangerous devices are to be delivered shall include, but not be  
8 limited to, determining that the recipient of the dangerous drugs or dangerous devices is  
9 authorized by law to receive the dangerous drugs or dangerous devices.”

10           11. Section 4060 provides, in pertinent part:

11           “No person shall possess any controlled substance, except that furnished to a person upon  
12 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
13 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
14 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
15 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
16 pharmacist pursuant to either Section 4052.1 or 4052.2.”

17           12. Section 4301 provides, in pertinent part:

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

21           ...

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

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

27           “(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
3 practice authorized by the license.

4 ...

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

7 ...

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

25 ...

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

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1 federal and state laws and regulations governing pharmacy, including regulations established by  
2 the board or by any other state or federal regulatory agency.”

3 13. Section 4324 provides:

4 “(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
5 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any  
6 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment  
7 pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county  
8 jail for not more than one year.

9 “(b) Every person who has in his or her possession any drugs secured by a forged  
10 prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the  
11 Penal Code, or by imprisonment in the county jail for not more than one year.”

12 14. Health and Safety Code section 11150 provides:

13 “No person other than a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor  
14 acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting  
15 within the scope of a project authorized under Article 1 (commencing with Section 128125) of  
16 Chapter 3 of Part 3 of Division 107 or within the scope of either Section 4052.1 or 4052.2 of the  
17 Business and Professions Code, a registered nurse acting within the scope of a project authorized  
18 under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a  
19 certified nurse-midwife acting within the scope of Section 2746.51 of the Business and  
20 Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business  
21 and Professions Code, a physician assistant acting within the scope of a project authorized under  
22 Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section  
23 3502.1 of the Business and Professions Code, a naturopathic doctor acting within the scope of  
24 Section 3640.5 of the Business and Professions Code, or an optometrist acting within the scope of  
25 Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant  
26 to Section 4005 of the Business and Professions Code shall write or issue a prescription.”

27 ///

28

1           15. Health and Safety Code section 11153, subdivision (a), provides, in pertinent part:  
2           “A prescription for a controlled substance shall only be issued for a legitimate medical  
3 purpose by an individual practitioner acting in the usual course of his or her professional  
4 practice.”

5           16. Health and Safety Code section 11157 provides:  
6           “No person shall issue a prescription that is false or fictitious in any respect.”

7           17. Health and Safety Code section 11170 provides:  
8           “No person shall prescribe, administer, or furnish a controlled substance for himself.”

9           18. Health and Safety Code section 11173 provides, in pertinent part:  
10          “(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt  
11 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
12 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

13          “(b) No person shall make a false statement in any prescription, order, report, or record,  
14 required by this division.”

15          19. Health and Safety Code section 11174 provides:  
16          “No person shall, in connection with the prescribing, furnishing, administering, or  
17 dispensing of a controlled substance, give a false name or false address.”

18          20. Health and Safety Code section 11368 provides:  
19          “Every person who forges or alters a prescription or who issues or utters an altered  
20 prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any  
21 narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription,  
22 or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription,  
23 shall be punished by imprisonment in the county jail for not less than six months nor more than  
24 one year, or in the state prison.”

25          21. California Code of Regulations, title 16, section 1770, provides:  
26          “For the purpose of denial, suspension, or revocation of a personal or facility license  
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
2 licensee or registrant to perform the functions authorized by his license or registration in a manner  
3 consistent with the public health, safety, or welfare.”

#### 4 COST RECOVERY

5 22. Section 125.3, subdivision (a), provides:

6 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
7 proceeding before any board within the department or before the Osteopathic Medical Board,  
8 upon request of the entity bringing the proceedings, the administrative law judge may direct a  
9 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
10 to exceed the reasonable costs of the investigation and enforcement of the case.”

#### 11 DRUGS

12 23. “Cyclobenzaprine” is a muscle relaxant medication used to relieve skeletal muscle  
13 spasms and associated pain in acute musculoskeletal conditions. It is a dangerous drug within the  
14 meaning of Business and Professions Code section 4022.

15 24. “Hydrocodone-Acetaminophen” (HC-APAP) is known by the brand name Norco and  
16 is used for the relief of moderate to moderately severe pain. It is a Schedule III controlled  
17 substance pursuant to Health and Safety Code section 11056, subdivision (e)(4). It also is a  
18 dangerous drug within the meaning of Business and Professions Code section 4022 and a narcotic  
19 drug within the meaning of Health and Safety Code section 11019.

20 25. “Methylprednisolone” is a synthetic glucocorticoid or corticosteroid drug and is used  
21 for its anti-inflammatory effects. It is a dangerous drug within the meaning of Business and  
22 Professions Code section 4022.

#### 23 FACTUAL BACKGROUND AND CAUSES FOR DISCIPLINE

##### 24 FRAUDULENT PRESCRIPTIONS

25 26. On or about December 2, 2008, at Rite Aid Pharmacy in San Luis Obispo, California,  
26 respondent completed and initialed prescription number 529341 for Wesley Ferrens. This  
27 prescription purported to be a telephonic order from Dr. Monroy for Norco 10/325 #90 and  
28 Cyclobenzaprine 10 mg #90. The prescription stated that no refills remained.

1           27. Respondent left Rite Aid and began to work at CVS Pharmacy in Nipomo, California,  
2 on or about January 27, 2009. While at CVS, he completed a prescription transferring  
3 prescription number 529341 from Rite Aid to CVS. This transferred prescription again was for  
4 Wess Ferrens from Dr. Monroy for Norco 10/325 #90. Wess Ferrens's address was listed as 221  
5 Bishop. Unlike the original prescription number 529341, however, this transferred prescription  
6 stated that four refills remained.

7           28. On or about August 18, 2009, a CVS employee was filling the transferred  
8 prescription and called Rite Aid to get a copy of the original prescription number 529341. Rite  
9 Aid discovered at that time that CVS was filling a fraudulent prescription. Dr. Monroy's office  
10 was contacted and said that it had no patient by the name of Wesley Ferrens. The address listed  
11 on the transferred prescription does not exist.

12           29. Further investigation and contact with Dr. Monroy's office indicated that respondent  
13 used Dr. Monroy's name to forge the following prescriptions and refills. At least some of the  
14 prescriptions were delivered.

15           A.1) On or about February 15, 2009, respondent wrote and filled transfer prescription  
16 number 879471 from Dr. Monroy for Wess Ferrens for Norco 10/325 #90. This transfer  
17 prescription stated that four refills remained. The original prescription number 529341 was for  
18 Wess Ferrens from Dr. Monroy for Norco 10/325 #90 and Cyclobenzaprine 10 mg #90. The  
19 original prescription stated that no refills remained.

20           2) On or about March 6, 2009, respondent refilled transfer prescription number  
21 879471 for Norco 10/325 #90.

22           3) On or about March 20, 2009, respondent refilled transfer prescription number  
23 879471 for Norco 10/325 #90.

24           4) On or about April 13, 2009, respondent refilled transfer prescription number  
25 879471 for Norco 10/325 #90.

26           5) On or about May 1, 2009, respondent refilled transfer prescription number 879471  
27 for Norco 10/325 #90.

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1 B. On or about May 1, 2009, respondent wrote and filled prescription number 891704  
2 from Dr. Monroy for Wesley Ferrens for methylprednisolone 4 mg, #21. This prescription stated  
3 that one refill remained.

4 C.1) On or about May 6, 2009, respondent wrote and filled prescription number  
5 892490 from Dr. Monroy for David Michelson for Norco 10/325 #180. This prescription stated  
6 that four refills remained.

7 2) On or about June 3, 2009, respondent refilled prescription number 892490 for  
8 Norco 10/325 #180.

9 3) On or about June 24, 2009, respondent refilled prescription number 892490 for  
10 Norco 10/325 #180.

11 4) On or about August 4, 2009, respondent refilled prescription number 892490 for  
12 Norco 10/325 #180.

13 D.1) On or about May 24, 2009, respondent wrote and filled prescription number  
14 894919 for Hydrocodone-APAP 10/325 #90. This prescription allowed for four refills.

15 2) On or about July 9, 2009, respondent refilled prescription number 894919 for  
16 Hydrocodone-APAP 10/325 #90.

17 3) On or about August 18, 2009, respondent refilled prescription number 894919 for  
18 Hydrocodone-APAP 10/325 #90.

19 30. Respondent was interviewed by store security personnel on or about August 21, 2009.  
20 He admitted that he wrote the prescriptions himself, used the drugs himself, and wanted help with  
21 his drug problem. He wrote the following statement:

22 "In December of 2008 I created a prescription for pain medication and muscle relaxers for  
23 personal use. These prescriptions were not valid and these medications were used by myself.

24 "After leaving my employment with Rite Aid I continued to fill these prescriptions to  
25 satisfy my own needs. I currently find myself relying on the pain medications and wish to find  
26 help for a drug problem."

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1 dangerous drugs which he obtained by writing and issuing false and unauthorized prescriptions.  
2 This use impaired his ability to conduct with safety to the public the practice of a pharmacist.

3 **FOURTH CAUSE FOR DISCIPLINE**  
4 **Unprofessional Conduct – Furnishing a Dangerous Drug Without a Prescription**  
5 **Bus. & Prof. Code, §§ 4059, subd. (a), 4301, subd. (o)**

6 38. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
7 fully set forth.

8 39. Respondent has subjected his pharmacist license to disciplinary action under sections  
9 4059, subdivision (a), and 4301, subdivision (o), for the unprofessional conduct of furnishing a  
10 dangerous drug without a prescription. As set forth in paragraphs 26-31 above, respondent wrote  
11 and issued false and unauthorized prescriptions for dangerous drugs. These drugs were delivered  
12 and ultimately obtained by respondent for his own use.

13 **FIFTH CAUSE FOR DISCIPLINE**  
14 **Unprofessional Conduct – Not Complying with Laws for Delivering a Dangerous Drug**  
15 **Bus. & Prof. Code, §§ 4059.5, subd. (e), 4301, subd. (o)**

16 40. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
17 fully set forth.

18 41. Respondent has subjected his pharmacist license to disciplinary action under sections  
19 4059.5, subdivision (e), and 4301, subdivision (o), for the unprofessional conduct of not  
20 complying with the laws to which dangerous drugs are to be delivered. As set forth in paragraphs  
21 26-31 above, respondent wrote and issued false and unauthorized prescriptions for dangerous  
22 drugs. These drugs were delivered and ultimately obtained by respondent for his own use.

23 **SIXTH CAUSE FOR DISCIPLINE**  
24 **Unprofessional Conduct – Possession of a Controlled Substance**  
25 **Bus. & Prof. Code, §§ 4060, 4301, subd. (o)**

26 42. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
27 fully set forth.

28 43. Respondent has subjected his pharmacist license to disciplinary action under sections  
4060 and 4301, subdivision (o), for the unprofessional conduct of possession of a controlled  
substance. As set forth in paragraphs 26-31 above, respondent admitted to possessing and using

///

1 Hydrocodone-Acetaminophen which he obtained by writing and issuing false and unauthorized  
2 prescriptions.

3 **SEVENTH CAUSE FOR DISCIPLINE**  
4 **Unprofessional Conduct – Forgery**  
5 **Bus. & Prof. Code, §§ 4301, subd. (o), 4324, subd. (a)**

6 44. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
7 fully set forth.

8 45. Respondent has subjected his pharmacist license to disciplinary action under sections  
9 4301, subdivision (o), and 4324, subdivision (a), for the unprofessional conduct of forgery. As  
10 set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized  
11 prescriptions.

12 **EIGHTH CAUSE FOR DISCIPLINE**  
13 **Unprofessional Conduct – Possession of Drugs from a Forged Prescription**  
14 **Bus. & Prof. Code, §§ 4301, subd. (o), 4324, subd. (b)**

15 46. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
16 fully set forth.

17 47. Respondent has subjected his pharmacist license to disciplinary action under sections  
18 4301, subdivision (o), and 4324, subdivision (b), for the unprofessional conduct of possession of  
19 drugs from a forged prescription. As set forth in paragraphs 26-31 above, respondent admitted to  
20 possessing and using dangerous drugs which he obtained by writing and issuing false and  
21 unauthorized prescriptions.

22 **NINTH CAUSE FOR DISCIPLINE**  
23 **Unprofessional Conduct – Writing an Unauthorized Prescription**  
24 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11150**

25 48. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
26 fully set forth.

27 49. Respondent has subjected his pharmacist license to disciplinary action under Business  
28 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11150 for  
the unprofessional conduct of writing an unauthorized prescription. As set forth in paragraphs  
26-31 above, respondent wrote and issued false and unauthorized prescriptions.

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**TENTH CAUSE FOR DISCIPLINE**  
**Unprofessional Conduct – Issuing a Prescription for a Controlled Substance**  
**Without a Legitimate Medical Purpose**  
**Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11153, subd. (a)**

50. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if fully set forth.

51. Respondent has subjected his pharmacist license to disciplinary action under Business and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11153, subdivision (a), for the unprofessional conduct of issuing a prescription for a controlled substance without a legitimate medical reason. As set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized prescriptions for Hydrocodone-Acetaminophen for his own use.

**ELEVENTH CAUSE FOR DISCIPLINE**  
**Unprofessional Conduct – Issuing a False or Fictitious Prescription**  
**Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11157**

52. The allegations of paragraphs 24-30 are realleged and incorporated by reference as if fully set forth.

53. Respondent has subjected his pharmacist license to disciplinary action under Business and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11157 for the unprofessional conduct of issuing a false or fictitious prescription. As set forth in paragraphs 24-30 above, respondent wrote and issued false and unauthorized prescriptions for dangerous drugs. These drugs were delivered and ultimately obtained by respondent for his own use.

**TWELFTH CAUSE FOR DISCIPLINE**  
**Unprofessional Conduct – Furnishing a Controlled Substance for Himself**  
**Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11170**

54. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if fully set forth.

55. Respondent has subjected his pharmacist license to disciplinary action under Business and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11170 for the unprofessional conduct of furnishing a controlled substance for himself. As set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized prescriptions for

1 Hydrocodone-Acetaminophen. These controlled substances were delivered and ultimately  
2 obtained by respondent for his own use.

3 **THIRTEENTH CAUSE FOR DISCIPLINE**  
4 **Unprofessional Conduct – Obtaining Controlled Substances by Fraud**  
5 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11173, subd. (a)**

6 56. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
7 fully set forth.

8 57. Respondent has subjected his pharmacist license to disciplinary action under Business  
9 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11173,  
10 subdivision (a), for the unprofessional conduct of obtaining controlled substances by fraud. As  
11 set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized  
12 prescriptions for Hydrocodone-Acetaminophen. These controlled substances were delivered and  
13 ultimately obtained by respondent for his own use.

14 **FOURTEENTH CAUSE FOR DISCIPLINE**  
15 **Unprofessional Conduct – Making a False Statement in a Prescription**  
16 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11173, subd. (b)**

17 58. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
18 fully set forth.

19 59. Respondent has subjected his pharmacist license to disciplinary action under Business  
20 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11173,  
21 subdivision (b), for the unprofessional conduct of making a false statement in a prescription. As  
22 set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized  
23 prescriptions.

24 **FIFTEENTH CAUSE FOR DISCIPLINE**  
25 **Unprofessional Conduct – Giving a False Address in Connection with**  
26 **Dispensing a Controlled Substance**  
27 **Bus. & Prof. Code, §§ 4301, subd. (j); Health & Saf. Code, § 11174**

28 60. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
fully set forth.

61. Respondent has subjected his pharmacist license to disciplinary action under Business  
and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11174 for

1 the unprofessional conduct of giving a false address in connection with dispensing a controlled  
2 substance. As set forth in paragraphs 26-31 above, respondent wrote and issued false and  
3 unauthorized prescriptions with a false address for Hydrocodone-Acetaminophen. These  
4 controlled substances were delivered and ultimately obtained by respondent for his own use.

5  
6 **SIXTEENTH CAUSE FOR DISCIPLINE**

7 **Unprofessional Conduct – Forging a Prescription for a Narcotic Drug, or Obtaining or**  
8 **Possessing a Narcotic Drug with a Forged Prescription**  
9 **Bus. & Prof. Code, §§ 4301, subd. (j); Health & Saf. Code, § 11368**

10 62. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if  
11 fully set forth.

12 63. Respondent has subjected his pharmacist license to disciplinary action under Business  
13 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11368 for  
14 the unprofessional conduct of forging a prescription for a narcotic drug, or obtaining or  
15 possessing a narcotic drug with a forged prescription. As set forth in paragraphs 26-31 above,  
16 respondent wrote and issued false and unauthorized prescriptions for Hydrocodone-  
17 Acetaminophen. These narcotic drugs were delivered and ultimately obtained by respondent for  
18 his own use.

19 **DUI ARREST AND CONVICTION**

20 64. On or about December 10, 2010, at about 2:25 a.m., a police officer saw respondent  
21 driving a vehicle at a high rate of speed in Pismo Beach, California. The vehicle was being  
22 driven erratically and had expired license tags. The police stopped the vehicle. Respondent's  
23 eyes were red and watery, and had an odor of alcoholic beverage coming from his person. A  
24 preliminary alcohol screening test registered respondent's blood alcohol to be 0.144 percent.  
25 After some hesitation, respondent submitted to a blood test.

26 65. Respondent was arrested and charged with misdemeanor violations of Vehicle Code  
27 sections 23152, subdivision (a) (driving under the influence of an alcoholic beverage) and  
28 subdivision (b) (driving while having a 0.08 percent or higher blood alcohol content).

66. On or about January 10, 2011, in the Superior Court of California, San Luis Obispo  
County, case number M455493, entitled *The People of the State of California vs. Sean Allen*

1 *Pendley*, respondent pled no contest to a misdemeanor violation of Vehicle Code section 23152,  
2 subdivision (b). The other count was dismissed. Imposition of sentence was suspended, and  
3 respondent was placed on court probation for a period of three years, which included, but were  
4 not limited to, the following terms: enrolling in a driving under the influence program and two  
5 days' incarceration.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**  
7 **Criminal Conviction**  
8 **Bus. & Prof. Code, § 490, subd. (a)**

9 67. The allegations of paragraphs 64-66 are realleged and incorporated by reference as if  
10 fully set forth.

11 68. Respondent has subjected his pharmacist license to disciplinary action under section  
12 490, subdivision (a), for a criminal conviction. As set forth in paragraphs 64-66 above,  
13 respondent was convicted of a misdemeanor violation of Vehicle Code section 23152, subdivision  
14 (b), for driving while intoxicated.

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**  
16 **Unprofessional Conduct – Criminal Conviction**  
17 **Bus. & Prof. Code, § 4301, subd. (l)**

18 69. The allegations of paragraphs 64-66 are realleged and incorporated by reference as if  
19 fully set forth

20 70. Respondent has subjected his pharmacist license to disciplinary action under section  
21 4301, subdivision (l), for the unprofessional conduct of sustaining a criminal conviction. As set  
22 forth in paragraphs 64-66 above, respondent was convicted of a misdemeanor violation of  
23 Vehicle Code section 23152, subdivision (b), for driving while intoxicated.

24 **NINETEENTH CAUSE FOR DISCIPLINE**  
25 **Unprofessional Conduct – Use of Alcoholic Beverages**  
26 **Bus. & Prof. Code, § 4301, subd. (h)**

27 71. The allegations of paragraphs 64-66 are realleged and incorporated by reference as if  
28 fully set forth

72. Respondent has subjected his pharmacist license to disciplinary action under section  
4301, subdivision (h), for the unprofessional conduct of using alcoholic beverages. As set forth

///

1 in paragraphs 64-66 above, respondent used alcoholic beverages in a manner dangerous or  
2 injurious to himself or the public by driving while intoxicated.

3 PRAYER

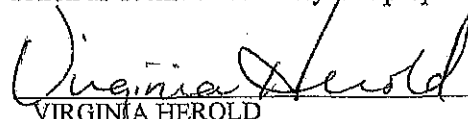
4 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this  
5 Accusation, and that following the hearing, the Board issue a decision:

6 1. Revoking or suspending Pharmacist License Number RPH 56229 issued to Sean  
7 Allen Pendley;

8 2. Ordering Sean Allen Pendley to pay the Board of Pharmacy the reasonable costs of  
9 the investigation and enforcement of this case pursuant to Business and Professions Code section  
10 125.3; and

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 1/17/13

  
VIRGINIA HEROLD

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

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