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

In the Matter of the Accusation Against:

Case No. 4568

JOHN EDWARD GILLESPIE 1730 Redding Way Upland, CA 91784

Pharmacist License No. RPH 25025

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the

Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 6, 2014.

It is so ORDERED on October 1, 2014.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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By

STAN C. WEISSER Board President

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10	In the Matter of the Accusation Against:	Case No. 4568					
11	JOHN EDWARD GILLESPIE						
12 13	1730 Redding Way Upland, CA 91784 Pharmacist License No. RPH 25025	STIPULATED SURRENDER OF					
14	Respondent.	LICENSE AND ORDER					
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16	IT IS HEREBY STIPULATED AND AGE	REED by and between the parties to the above-					
17	entitled proceedings that the following matters are true:						
18	PARTIES						
19	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.						
20	She brought this action solely in her official capa	city and is represented in this matter by Kamala					
21	D. Harris, Attorney General of the State of California, by Gillian E. Friedman, Deputy Attorney						
22	General.						
23	2. John Edward Gillespie (Respondent) is representing himself in this proceeding and						
24	has chosen not to exercise his right to be represented by counsel.						
25	3. On or about July 18, 1967, the Board of Pharmacy issued Pharmacist License No.						
26	RPH 25025 to John Edward Gillespie (Responde	nt). The Pharmacist License expired on July 31,					
27	2012, and has not been renewed.						
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1	JURISDICTION	
2	4. Accusation No. 4568 was filed before the Board of Pharmacy (Board), Department of	
3	Consumer Affairs, and is currently pending against Respondent. The Accusation and all other	
4	statutorily required documents were properly served on Respondent on April 16, 2014.	
5	Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation	ļ
6	No. 4568 is attached as Exhibit A and incorporated by reference.	
7	ADVISEMENT AND WAIVERS	
8	5. Respondent has carefully read, and understands the charges and allegations in	i
9	Accusation No. 4568. Respondent also has carefully read, and understands the effects of this	
10	Stipulated Surrender of License and Order.	
11	6. Respondent is fully aware of his legal rights in this matter, including the right to a	
12	hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at	
13	his own expense; the right to confront and cross-examine the witnesses against him; the right to	
14	present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel	
15	endance of witnesses and the production of documents; the right to reconsideration and	
16	court review of an adverse decision; and all other rights accorded by the California	
17	Administrative Procedure Act and other applicable laws.	
18	7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and	
19	every right set forth above.	
20	<u>CULPABILITY</u>	
21	8. Respondent admits the truth of each and every charge and allegation in Accusation	
22	No. 4568, agrees that cause exists for discipline and hereby surrenders his Pharmacist License	
23	No. RPH 25025 for the Board's formal acceptance.	
24	9. Respondent understands that by signing this stipulation he enables the Board to issue	
25	an order accepting the surrender of his Pharmacist License without further process.	
26	<u>CONTINGENCY</u>	
27	10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent	
28	understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may	
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	Stipulated Surrender of License (Case No. 4568)	+

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

8 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
9 copies of this Stipulated Surrender of License and Order, including Portable Document Format
10 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

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<u>ORDER</u>

IT IS HEREBY ORDERED that Pharmacist License No. RPH 25025, issued to Respondent
 John Edward Gillespie, is surrendered and accepted by the Board of Pharmacy.

The surrender of Respondent's Pharmacist License and the acceptance of the
 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
 license history with the Board of Pharmacy.

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2. Respondent shall lose all rights and privileges as a pharmacist in California as of the
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effective date of the Board's Decision and Order.

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3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

3 4. Respondent may not apply for any license, permit, or registration from the Board for three years from the effective date of this decision. If Respondent ever files an application for 4 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new 5 application for licensure. Respondent shall satisfy all requirements applicable to that license as of 6 the date the application is submitted to the Board, including, but not limited to taking and passing 7 the California Pharmacist Licensure Examination prior to the issuance of a new license and all of 8 the charges and allegations set forth in Accusation No. 4568 shall be deemed to be true, correct 9 and admitted by Respondent when the Board determines whether to grant or deny the application. 10 Respondent is required to report this surrender as disciplinary action. 11

12 5. If Respondent should ever apply or reapply for a new license or certification, or
13 petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in Accusation No. 4568 shall be deemed to
15 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
16 other proceeding seeking to deny or restrict licensure.

17 6. Respondent shall pay the agency its costs of investigation and enforcement in the
18 amount of \$3,230.00 prior to issuance of a new or reinstated license.

ACCEPTANCE

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

24 8/23/2014 25 DATED: 26

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JOAN EDWARD GILLESPIE

Stipulated Surrender of License (Case No. 4568)

1	ENDORS	<u>EMENT</u>				
2	The foregoing Stipulated Surrender of Licer	nse and Order is hereby respectfully submitted				
3	for consideration by the Board of Pharmacy of the	or consideration by the Board of Pharmacy of the Department of Consumer Affairs.				
4	Dated: 8/12/14	Respectfully submitted,				
5		KAMALA D. HARRIS				
6		Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney Concrel				
7		Supervising Deputy Attorney General				
8		JER				
9		GILLIAN E. FRIEDMAN Deputy Attorney General Attorneys for Complainant				
10		Attorneys for Complainant				
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Exhibit A

Accusation No. 4568

· .	1	KAMALA D. HARRIS		
	2	Attorney General of California MARC D. GREENBAUM		
	3	Supervising Deputy Attorney General GILLIAN E. FRIEDMAN		
	4	Deputy Attorney General State Bar No. 169207	· · · · ·	
	5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
	6	Telephone: (213) 897-2564 Facsimile: (213) 897-2804		
	0	Attorneys for Complainant		
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	8	DEPARTMENT OF C	PHARMACY ONSUMER AFFAIRS	
· .	9	STATE OF C	ALIFORNIA	
	10) In the Matter of the Accusation Against:	Case No. 4568	
	11	JOHN EDWARD GILLESPIE		
*	12	18333 Hatteras Street, #110 Tarzana, CA 91356	ACCUSATION	
	13	Pharmacist License No. RPH 25025		
•	14	•		
	15	Respondent.		
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	17	Complainant alleges:		
	18	PAR	TIES	
	19	1. Virginia Herold (Complainant) bring	s this Accusation solely in her official capacity	
	20	as the Executive Officer of the Board of Pharmac	y, Department of Consumer Affairs.	
× .	21		of Pharmacy issued Pharmacist License	
	22	Number RPH 25025 to John Edward Gillespie (F	Lespondent). The Pharmacist License expired o	n
	23	July 31, 2012, and has not been renewed.		
	24		ICTION	
	25		e Board, under the authority of the following	
	26	laws. All section references are to the Business a	•	. [,]
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•			Accusatio	

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

4 5. Section 4300 provides, in pertinent part, that every license issued by the Board is 5 subject to discipline, including suspension or revocation.

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Section 4301 of the Code states:

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

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

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

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7. Section 4113 of the Code, subdivision (b) states:

20 "(b) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with
21 all state and federal laws and regulations pertaining to the practice of pharmacy."

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8. Section 4306.5 of the Code, subdivision (a) states:

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

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

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FIRST CAUSE FOR DISCIPLINE

(Filling of Erroneous Order)

10. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivisions (j) and (o), and 4113, subdivision (b) of the Code, on the grounds of unprofessional conduct, for violating section 4306.5, subdivision (a) in that on or about August 4, 2009, while Respondent was employed as the Pharmicist-in-Charge of Gemmel San Antonio Pharmacy, located in Upland, California, he incorrectly filed an order that resulted in patient harm. The circumstances are as follows:

13 11. On or about August 4, 2009, San Antonio Surgical Center provided order
14 "RX#6182485" for filling to Gemmel San Antonio Pharmacy. The order was for acetic acid 5%
15 as a stock solution for its surgical center. Respondent erroneously compounded the solution for
16 San Antonio Surgical Center in that he filled the order with acetic acid 100% instead of acetic
17 acid 5%.

18 12. On or about April 23, 2010, Patient M.E. was undergoing a surgical procedure that 19 required 5% acetic acid. As a result of Respondent's error, Patient M.E. suffered chemical burns 20 to her vaginal area that caused her to have complaints of inability to engage in relationships, fear 21 of future pregnancy issues, and discomfort from sexual intercourse, as well as loss of work for 22 one month. Patient M.E. filed a claim which resulted in a settlement against Respondent and the 23 pharmacy.

PRAYER

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

27 1. Revoking or suspending Pharmacist License Number RPH 25025, issued to John
28 Bdward Gillespie;

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Accusation

2. Ordering John Edward Gillespie to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

9/6/12 DATED:

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

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Accusation