

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

In the Matter of the Petition to Revoke Probation
Against:

Case No. 4750

WILLIAM CHARLES ZIMMERMAN
15437 Stratford Drive
San Jose, CA 95124

Pharmacist License No. RPH 37352

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 June 11, 2015.

It is so ORDERED on June 4, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

AMARYLIS GUTIERREZ
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
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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 Petition to Revoke
Probation Against:

Case No. 4750

12 **WILLIAM CHARLES ZIMMERMAN**
13 **15437 Stratford Drive**
14 **San Jose, CA 95124**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Pharmacist License No. RPH 37352**

16 Respondent.

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 Susana A. Gonzales, Deputy Attorney
24 General.

25 2. William Charles Zimmerman (Respondent) is represented in this proceeding by
26 attorney Robert F. Hahn, Esq., whose address is 2550 Ninth Street, Suite 101
27 Berkeley, CA 94710.
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1 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
2 effective date of the Board's Decision and Order.

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

5 4. If Respondent ever files an application for licensure or a petition for reinstatement in
6 the State of California, the Board shall treat it as a new application for licensure.

7 5. Respondent may not apply for any license, permit, or registration from the board for
8 three years from the effective date of this decision. Respondent stipulates that should he apply for
9 any license from the board on or after the effective date of this decision, all allegations set forth in
10 Petition to Revoke Probation No. 4750 shall be deemed to be true, correct and admitted by
11 respondent when the board determines whether to grant or deny the application. Respondent shall
12 satisfy all requirements applicable to that license as of the date the application is submitted to the
13 board, including, but not limited to taking and passing the California Pharmacist Licensure
14 Examination prior to the issuance of a new license. Respondent is required to report this surrender
15 as disciplinary action.

16 6. Respondent shall pay the agency its costs of investigation and enforcement in the
17 amount of \$8,952.50 prior to issuance of a new or reinstated license.

18 7. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Petition to Revoke Probation No. 4750
21 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
22 of Issues or any other proceeding seeking to deny or restrict licensure.

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1 ACCEPTANCE

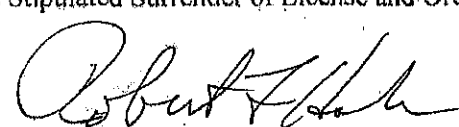
2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Robert F. Hahn, Esq. I understand the stipulation and the effect it
4 will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Pharmacy.

7
8 DATED: 5/7/15


9 WILLIAM CHARLES ZIMMERMAN
10 Respondent

11 I have read and fully discussed with Respondent William Charles Zimmerman the terms
12 and conditions and other matters contained in this Stipulated Surrender of License and Order. I
13 approve its form and content.

14 DATED: 5-7-15


15 ROBERT F. HAHN, ESQ.
16 Attorney for Respondent

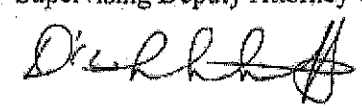
17
18 ENDORSEMENT

19 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
20 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

21 Dated: May 7, 2015

Respectfully submitted,

22 KAMALA D. HARRIS
23 Attorney General of California
24 DIANN SOKOLOFF
25 Supervising Deputy Attorney General


26 SUSANA A. GONZALES
27 Deputy Attorney General
28 Attorneys for Complainant

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90507905.doc

Exhibit A

Petition to Revoke Probation No. 4750

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
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6 Telephone: (510) 622-2221
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 Petition to Revoke
Probation Against,

Case No. 4750

12 **WILLIAM CHARLES ZIMMERMAN**
13 **15437 Stratford Drive**
14 **San Jose, CA 95124**

PETITION TO REVOKE PROBATION

15 **Pharmacist License No. RPH 37352**

16 Respondent.

17 Complainant alleges:

18 PARTIES

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

22 2. On or about October 31, 1983, the Board of Pharmacy issued Pharmacist License
23 Number RPH 37352 to William Charles Zimmerman (Respondent). The Pharmacist License was
24 in full force and effect at all times relevant to the charges brought in this Petition to Revoke
25 Probation and will expire on October 31, 2013, unless renewed.

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3. In a disciplinary action entitled "In the Matter of Accusation Against William Charles Zimmerman," Case No. 3182, the Board of Pharmacy, issued a decision, effective August 14, 2009, in which Respondent's Pharmacist License was revoked. However, the revocation was stayed and Respondent's Pharmacist License was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

6. Section 4300, subdivision (d), states, in part, “(d) [t]he board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation.”

7. Section 4402, subdivision (a), states “[a]ny pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.”

FIRST CAUSE TO REVOKE PROBATION

(Failure to Report to the Board)

8. At all times after the effective date of Respondent's probation, Condition 2 stated:

"Reporting to the Board. Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board."

1 9. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 2. Specifically, Respondent failed to timely submit Quarterly Reports, due
3 on April 10, 2011, April 10, 2012, and July 10, 2012.

4 10. On May 20, 2011, the Board sent a non-compliance letter to Respondent, notifying
5 him that he failed to submit his April 10, 2011 quarterly report, and instructing him to submit the
6 report no later than May 24, 2011. On May 18, 2011, the Board received Respondent's
7 delinquent quarterly report. Subsequently, on May 12, 2012, the Board received Respondent's
8 April 10, 2012 quarterly report, which was delinquent at that point. Again, on September 28,
9 2012, the Board sent a non-compliance letter to Respondent notifying him that he failed to submit
10 his July 10, 2012 quarterly report. On October 5, 2012, the Board received Respondent's
11 delinquent quarterly report for July, which was dated July 1, 2012.

12 SECOND CAUSE TO REVOKE PROBATION

13 (Reimbursement of Board Costs)

14 11. At all times after the effective date of Respondent's probation, Condition 8 stated:

15 **"Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of
16 investigation and prosecution in the amount of \$6,000.00. Payments shall be due on a quarterly
17 basis, with the entire amount to be paid within three (3) years. Failure to make timely payments
18 of Board as directed shall be considered a violation of probation.

19 **"The filing of bankruptcy by Respondent shall relieve Respondent of his responsibility to**
20 **reimburse the Board its costs of investigation and prosecution."**

21 12. Respondent's probation is subject to revocation because he failed to comply with
22 Probation Condition 8. Specifically, Respondent failed to timely submit quarterly payments of
23 \$500.00 by the required due dates of January 10, 2010, April 10, 2011, and July 10, 2012. On
24 August 27, 2009, the Board directed Respondent to submit quarterly payments of \$500.00 to be
25 received by the Board no later than the 10th of the month following the end of each quarter. The
26 Board directed Respondent to make the first payment of \$500.00 no later than October 10, 2009.

27 13. On March 9, 2010, the Board sent a non-compliance letter to Respondent notifying
28 him that he failed to timely submit his January 10, 2010, quarterly cost recovery payment.
Respondent was advised to submit the past due payment no later than March 23, 2010. On April

1 20, 2011, the Board sent Respondent another non-compliance letter notifying him that he failed to
2 submit his January 10, 2010, quarterly cost recovery payment. Respondent was instructed to
3 submit the past due payment no later than April 5, 2010. The Board received the \$500.00
4 payment on April 10, 2010.

5 14. On May 10, 2011, the Board sent Respondent another non-compliance letter
6 notifying him that he failed to timely submit his April 10, 2011, quarterly cost recovery payment.
7 Respondent was advised to submit the past due payment no later than May 24, 2011. On May 18,
8 2011, the Board received the delinquent cost recovery payment. On September 28, 2012, the
9 Board sent yet another non-compliance letter to Respondent notifying him that he failed to timely
10 submit his July 10, 2012, quarterly cost recovery payment.

11 THIRD CAUSE TO REVOKE PROBATION

12 (Mental Health Examination)

13 15. At all times after the effective date of Respondent's probation, Condition 16 stated, in
14 part:

15 "Mental Health Examination. Within 30 days of the effective date of this decision, and
16 on a periodic basis as may be required by the Board, Respondent shall undergo, at his own
17 expense, psychiatric evaluation(s) by a Board-appointed or Board-approved psychiatrist or
18 psychologist. Respondent shall sign a release authorizing the evaluator to furnish the Board with
19 a current diagnosis and a written report regarding the Respondent's judgment and ability to
20 function independently as a pharmacist with safety to the public. Respondent shall comply with
21 all the recommendations of the evaluator if directed by the Board."

22 16. Respondent's probation is subject to revocation because he failed to comply with
23 Probation Condition 16. Specifically, within 30 days of the decision's effective date, Respondent
24 failed to undergo, at his own expense, a psychiatric evaluation performed by any Board-appointed
25 or Board-approved psychiatrist or psychologist.

26 17. On or about September 17, 2009, Respondent sent a letter to the Board requesting
27 information for Dr. Robert Motano, a psychiatrist, to conduct a mental health evaluation as
28 required by Condition 16, above. On November 23, 2009, the Board sent Respondent a letter
advising him that the Board had approved Dr. Motano to conduct the mental health examination.
The letter also instructed Respondent to contact Dr. Motano to set up the appointment. On

1 December 14, 2009, the Board sent Respondent a second letter informing him that Dr. Motano
2 was approved to perform the required mental health examination, and instructing him to make the
3 required appointment.

4 18. On January 29, 2010, the Board received a letter from Respondent requesting that
5 another psychiatrist, Norman Reynolds, M.D., perform the required mental health examination.
6 On May 26, 2010, the Board sent a letter to Respondent advising him that Dr. Reynolds was
7 approved by the Board to perform the mental health examination. The letter also instructed
8 Respondent to contact Dr. Reynolds to set up the appointment.

9 19. On July 13, 2010, the Board sent a non-compliance letter to Respondent regarding his
10 failure to comply with Probation Condition 16 due to his failure to contact Dr. Reynolds and
11 schedule a mental health evaluation. The letter advised Respondent that he was required to
12 schedule a mental health evaluation with Dr. Reynolds no later than August 31, 2010.

13 20. On October 5, 2010, the Board received a letter from Respondent requesting that Dr.
14 Martin Williams, M.D., be allowed to perform the required mental health examination. On
15 December 8, 2010, the Board sent a non-compliance letter to Respondent regarding his failure to
16 complete the required mental health evaluation, and directed him to submit the name of another
17 mental health practitioner for Board review to conduct the mental health evaluation no later than
18 January 10, 2011. On December 20, 2010, the Board received a letter from Respondent stating
19 that Dr. Williams did not receive the information the Board sent to him on or about October 10,
20 2010. Respondent provided an alternate address for Dr. Williams. On March 24, 2011, the Board
21 sent a letter to Respondent advising him that Dr. Williams was approved to perform the mental
22 health examination as required.

23 21. On September 13, 2011, the Board sent another non-compliance letter to Respondent
24 regarding his failure to complete the required mental health evaluation within 30 days of the
25 effective date of probation. On September 19, 2011, the Board received Respondent's mental
26 health evaluation report performed by Dr. Williams.

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1 FOURTH CAUSE TO REVOKE PROBATION

2 (Tolling of Probation)

3 22. At all times after the effective date of Respondent's probation, Condition 13 stated:

4 **"Tolling of Probation.** Should Respondent, regardless of residency, for any reason cease
5 to practice pharmacy for a minimum of forty (40) hours per calendar month in California,
6 Respondent shall notify the Board in writing within 10 days of cessation of the practice of
7 pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to
8 the reduction of the probation period. It is a violation of probation for Respondent's probation to
9 remain tolled pursuant to the provisions of this condition for a period exceeding three years.

10 "Cessation of practice' means any period of time exceeding 30 days in which Respondent
11 is not engaged in the practice of pharmacy as defined in Section 4020 of the Business and
12 Professions Code."

13 23. Respondent's probation is subject to revocation because he failed to comply with
14 Probation Condition 13. Specifically, as of August 9, 2012, Respondent failed to practice
15 pharmacy in California for a minimum of forty (40) hours per calendar month for a period
16 exceeding three years.

17 24. On or about December 22, 2009, the Board sent Respondent a letter notifying him
18 that his probation was tolled because he had not been working in the practice of pharmacy since
19 the beginning of his probation. The Board also informed Respondent that he would be in
20 violation of probation condition 13 if his probation remained tolled for more than three years.
21 The letter also reminded Respondent that he was required to comply with all of the terms of his
22 probation even while his probation was tolled.

23 PRAAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
25 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

26 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3182
27 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No.
28 RPH 37352, issued to William Charles Zimmerman;


2. Revoking or suspending Pharmacist License No. RPH 37352, issued to William
Charles Zimmerman; and

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

DATED: 10/3/13


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

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 3182

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

In the Matter of the Accusation Against:

Case No. 3182

WILLIAM CHARLES ZIMMERMAN
15437 Stratford Drive
San Jose, CA 95124

Pharmacist License No. RPH 37352

Respondent.

DECISION AND ORDER

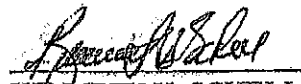
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on August 14, 2009

It is so ORDERED on July 15, 2009

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 REBECCA HEINSTEIN, State Bar No. 173202
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5604
Facsimile: (415) 703-5480
6
7 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3182

11 **WILLIAM CHARLES ZIMMERMAN**
12 15437 Stratford Drive
San Jose, CA 95124

OAH No. 2008110258

13 Pharmacist License No. RPh 37352

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14
15 Respondent.

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

19 **PARTIES**

20 1. Virginia K. Herold (Complainant) is the Executive Officer of the Board of
21 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
22 by Edmund G. Brown Jr., Attorney General of the State of California, by Rebecca Heinstein,
23 Deputy Attorney General.

24 2. Respondent William Charles Zimmerman (Respondent) is represented in
25 this proceeding by attorney Samuel Spital, whose address is Spital and Associates, 8880 Rio San
26 Diego Drive, Suite 800, San Diego, CA 92108-1642.

27 3. On or about October 31, 1983, the Board of Pharmacy issued Pharmacist
28 License No. RPh 37352 to William Charles Zimmerman (Respondent). The Pharmacist License

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 3182
2 and will expire on October 31, 2009, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3182 was filed before the Board of Pharmacy (Board), and
5 is currently pending against Respondent. The Accusation and all other statutorily required
6 documents were properly served on Respondent on October 22, 2008. Respondent timely filed
7 his Notice of Defense contesting the Accusation. A copy of Accusation No. 3182 is attached as
8 exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. 3182. Respondent has also carefully
12 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order.

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

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

23 CULPABILITY

24 8. Respondent admits the truth of paragraphs 20(a) and 20(c) of the Seventh
25 Cause for Discipline in Accusation No. 3182.

26 9. Respondent understands that the charges and allegations in the First,
27 Second, Third, Fourth, Fifth, Sixth and Eighth Causes for Discipline in Accusation No. 3182, if
28 proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

1 10 Respondent agrees that his Pharmacist License is subject to discipline and
2 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
3 Order below.

4 **RESERVATION**

5 11. The admissions made by Respondent herein are only for the purposes of
6 this proceeding, or any other proceedings in which the Board or other professional licensing
7 agency is involved, and shall not be admissible in any other civil or criminal proceeding.

8 **CONTINGENCY**

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

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

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Pharmacist License No. RPh 37352 issued to
17 Respondent William Charles Zimmerman (Respondent) is revoked. However, the revocation is
18 stayed and Respondent is placed on probation for five (5) years on the following terms and
19 conditions.

20 1. **Obey All Laws.** Respondent shall obey all state and federal laws and
21 regulations substantially related to or governing the practice of pharmacy.

22 Respondent shall report any of the following occurrences to the Board, in writing,
23 within 72 hours of such occurrence:

- 24 • an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal
26 controlled substances laws
- 27 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
28 any criminal complaint, information or indictment

1 • a conviction of any crime

2 • discipline, citation, or other administrative action filed by any state and federal
3 agency which involves Respondent's license or which is related to the practice
4 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
5 or charging for any drug, device or controlled substance.

6 2. **Reporting to the Board.** Respondent shall report to the Board
7 quarterly. The report shall be made either in person or in writing, as directed. Respondent
8 shall state under penalty of perjury whether there has been compliance with all the terms and
9 conditions of probation. If the final probation report is not made as directed, probation shall
10 be extended automatically until such time as the final report is made and accepted by the
11 Board.

12 3. **Interview with the Board.** Upon receipt of reasonable notice,
13 Respondent shall appear in person for interviews with the Board upon request at various
14 intervals at a location to be determined by the Board. Failure to appear for a scheduled
15 interview without prior notification to Board staff shall be considered a violation of probation.

16 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
17 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
18 compliance with the terms and conditions of his probation. Failure to comply shall be
19 considered a violation of probation.

20 5. **Continuing Education.** Respondent shall provide evidence of efforts
21 to maintain skill and knowledge as a pharmacist as directed by the Board.

22 6. **Notice to Employers.** Respondent shall notify all present and
23 prospective employers of the decision in case number 3182 and the terms, conditions and
24 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
25 this decision, and within 15 days of Respondent undertaking new employment, Respondent
26 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
27 writing acknowledging the employer has read the decision in case number 3182.

28 If Respondent works for or is employed by or through a pharmacy employment

1 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
2 every pharmacy of the and terms conditions of the decision in case number 3182 in advance of
3 the Respondent commencing work at each pharmacy.

4 "Employment" within the meaning of this provision shall include any full-time, part-
5 time, temporary, relief or pharmacy management service as a pharmacist, whether the
6 Respondent is considered an employee or independent contractor.

7 7. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
8 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
9 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
10 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
11 order.

12 8. **Reimbursement of Board Costs.** Respondent shall pay to the Board
13 its costs of investigation and prosecution in the amount of \$6,000.00. Payments shall be due
14 on a quarterly basis, with the entire amount to be paid within three (3) years. Failure to make
15 timely payments of Board costs as directed shall be considered a violation of probation.

16 The filing of bankruptcy by Respondent shall not relieve Respondent of his
17 responsibility to reimburse the Board its costs of investigation and prosecution.

18 9. **Probation Monitoring Costs.** Respondent shall pay the costs
19 associated with probation monitoring as determined by the Board each and every year of
20 probation. Such costs shall be payable to the Board at the end of each year of probation.
21 Failure to pay such costs shall be considered a violation of probation.

22 10. **Status of License.** Respondent shall, at all times while on probation,
23 maintain an active current license with the Board, including any period during which
24 suspension or probation is tolled.

25 If Respondent's license expires or is cancelled by operation of law or otherwise,
26 upon renewal or reapplication, Respondent's license shall be subject to all terms and
27 conditions of this probation not previously satisfied.

28 / / /

1 11. **License Surrender while on Probation/Suspension.** Following the
2 effective date of this decision, should Respondent cease practice due to retirement or health,
3 or be otherwise unable to satisfy the terms and conditions of probation, Respondent may
4 tender his license to the Board for surrender. The Board shall have the discretion whether to
5 grant the request for surrender or take any other action it deems appropriate and reasonable.
6 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject
7 to the terms and conditions of probation.

8 Upon acceptance of the surrender, Respondent shall relinquish his pocket
9 license to the Board within 10 days of notification by the Board that the surrender is accepted.
10 Respondent may not reapply for any license from the Board for three years from the effective
11 date of the surrender. Respondent shall meet all requirements applicable to the license sought
12 as of the date the application for that license is submitted to the Board.

13 12. **Notification of Employment/Mailing Address Change.** Respondent
14 shall notify the Board in writing within 10 days of any change of employment. Said
15 notification shall include the reasons for leaving and/or the address of the new employer,
16 supervisor or owner and work schedule if known. Respondent shall notify the Board in
17 writing within 10 days of a change in name, mailing address or phone number.

18 13. **Tolling of Probation.** Should Respondent, regardless of residency, for
19 any reason cease practicing pharmacy for a minimum of forty (40) hours per calendar month
20 in California, Respondent must notify the Board in writing within 10 days of cessation of the
21 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
22 shall not apply to the reduction of the probation period. It is a violation of probation for
23 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
24 period exceeding three years.

25 "Cessation of practice" means any period of time exceeding 30 days in which

26 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
27 the Business and Professions Code.

28 / / /

1 14. **Violation of Probation.** If Respondent violates probation in any
2 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
3 probation and carry out the disciplinary order which was stayed. If a petition to revoke
4 probation or an accusation is filed against Respondent during probation, the Board shall have
5 continuing jurisdiction and the period of probation shall be extended, until the petition to
6 revoke probation or accusation is heard and decided.

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

12 15. **Completion of Probation.** Upon successful completion of probation,
13 Respondent's license will be fully restored.

14 16. **Mental Health Examination.** Within 30 days of the effective date of
15 this decision, and on a periodic basis as may be required by the Board, Respondent shall
16 undergo, at his own expense, psychiatric evaluation(s) by a Board-appointed or Board-
17 approved psychiatrist or psychologist. Respondent shall sign a release authorizing the
18 evaluator to furnish the Board with a current diagnosis and a written report regarding the
19 Respondent's judgment and ability to function independently as a pharmacist with safety to the
20 public. Respondent shall comply with all the recommendations of the evaluator if directed by
21 the Board.

22 If the psychiatrist or psychotherapist recommends, and the Board directs,
23 Respondent shall undergo psychotherapy. Respondent shall, within 30 days of written notice
24 of the need for psychotherapy, submit to the Board for its prior approval, the recommended
25 program for ongoing psychotherapeutic care. Respondent shall undergo and continue
26 psychotherapy, at Respondent's own expense, until further notice from the Board. Respondent
27 shall have the treating psychotherapist or psychiatrist submit written quarterly reports to the
28 Board as directed. If Respondent is determined to be unable to practice safely, upon

1 notification, Respondent shall immediately cease practice and shall not resume practice until
2 notified by the Board.

3 **17. Rehabilitation Program - Pharmacists Recovery Program (PRP).**

4 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
5 Recovery Program for evaluation and shall successfully participate in and complete the
6 treatment contract and any subsequent addendums as recommended and provided by the PRP
7 and as approved by the Board. The costs for PRP participation shall be borne by the
8 Respondent.

9 If Respondent is currently enrolled in the PRP, said participation is now
10 mandatory and is no longer considered a self-referral under Business and Professions Code
11 section 4363, as of the effective date of this decision. Respondent shall successfully
12 participate in and complete his current contract and any subsequent addendums with the PRP.
13 Probation shall be automatically extended until Respondent successfully completes his
14 treatment contract. Any person terminated from the program shall be automatically suspended
15 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
16 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
17 probation for any violation of this term.

18 **18. Random Drug Screening.** If the PRP evaluator concludes that
19 Respondent is required to participate in the PRP, Respondent, at his own expense, shall
20 participate in random testing, including but not limited to biological fluid testing (urine,
21 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
22 The length of time shall be for the entire probation period and the frequency of testing will be
23 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
24 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
25 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
26 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
27 in the immediate suspension of practice by Respondent. Respondent may not resume the
28 practice of pharmacy until notified by the Board in writing.

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SPITAL AND ASSOCIATES

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19. Abstinence from Drugs and Alcohol Use. If the PRP evaluator concludes that Respondent is required to participate in the PRP, Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board, Respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the Respondent.

20. Reduction of Probation Period. The period of probation (subject to any tolling or extensions) shall be reduced to three (3) years if all of the following occur:

The PRP evaluator concludes that Respondent does not need to participate in the PRP.

The Mental Health Evaluator concludes that Respondent has the ability to function independently as a pharmacist with safety to the public.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Samuel Spital. 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.

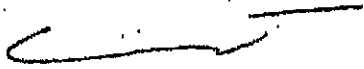
DATED: 3/23/09

WILLIAM CHARLES ZIMMERMAN
Respondent

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///
///

1 I have read and fully discussed with Respondent William Charles Zimmerman
2 the terms and conditions and other matters contained in the above Stipulated Settlement and
3 Disciplinary Order. I approve its form and content.

4 DATED: 3-24-09

5
6 
7 SAMUEL SPITAL
Attorney for Respondent


8 ENDORSEMENT

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

11
12 DATED: 3/24/09

13 EDMUND G. BROWN JR., Attorney General
of the State of California

14 FRANK H. PACOE
15 Supervising Deputy Attorney General

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17 
18 REBECCA HEINSTEIN
Deputy Attorney General

19 Attorneys for Complainant
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Exhibit A
Accusation No. 3182

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 REBECCA HEINSTEIN, State Bar No. 173202
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5604
Facsimile: (415) 703-5480

6 Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 3182

13 **WILLIAM CHARLES ZIMMERMAN**
14 15437 Stratford Drive
San Jose, CA 95124

ACCUSATION

15 Pharmacist License No. RPh 37352

Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about October 31, 1983, the Board of Pharmacy issued Pharmacist
21 License Number RPh 37352 to William Charles Zimmerman (Respondent). The Pharmacist
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on October 31, 2009, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy (Board), under
26 the authority of the following laws. All section references are to the Business and Professions
27 Code (Code) unless otherwise indicated.
28

1 4. Section 118(b) of the Code states, in relevant part, that the suspension,
2 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
3 proceed with a disciplinary action during the period within which the license may be renewed,
4 restored, reissued or reinstated.

5 5. Section 4402(a) of the Code states that any pharmacist license that is not
6 renewed within three years following its expiration may not be renewed, restored, or reinstated
7 and shall be canceled by operation of law at the end of the three-year period.

8 6. Section 4300 (a) of the Code states that every license issued may be
9 suspended or revoked.

10 7. Section 4301 of the Code states:

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

15 "(a) Gross immorality.

16 : . . .

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

20 : . . .

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

26 : . . .

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

1
2 "(1) The conviction of a crime substantially related to the qualifications, functions,
3 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
4 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
5 substances or of a violation of the statutes of this state regulating controlled substances or
6 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
7 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
8 The board may inquire into the circumstances surrounding the commission of the crime, in order
9 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
10 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
11 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
12 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
13 meaning of this provision. The board may take action when the time for appeal has elapsed, or
14 the judgment of conviction has been affirmed on appeal or when an order granting probation is
15 made suspending the imposition of sentence, irrespective of a subsequent order under Section
16 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
17 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
18 or indictment.

19
20 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
21 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
22 applicable federal and state laws and regulations governing pharmacy, including regulations
23 established by the board or by any other state or federal regulatory agency.

24
25 8, Section 4059(a) of the Code states, in relevant part, that a person may not
26 furnish any dangerous drug, except with the prescription of a physician, dentist, podiatrist,
27 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

1 9. Section 4060 of the Code states, in relevant part, that no person shall
2 possess any controlled substance, except that furnished to a person upon the prescription of a
3 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
4 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to
5 Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
6 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
7 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of
8 paragraph (5) of, subdivision (a) of Section 4052.

9 10. Section 4327 states:
10 "Any person who, while on duty, sells, dispenses or compounds any drug while
11 under the influence of any dangerous drug or alcoholic beverages shall be guilty of a
12 misdemeanor."

13 11. Title 16, California Code of Regulations, section 1770, states that for the
14 purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division
15 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
16 considered substantially related to the qualifications, functions or duties of a licensee or
17 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or
18 registrant to perform the functions authorized by his license or registration in a manner consistent
19 with the public health, safety, or welfare.

20 12. Section 125.3 of the Code provides, in pertinent part, that the Board may
21 request the administrative law judge to direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 DRUG

25 13. Dilaudid, also known as Hydromorphone, is a Schedule II controlled
26 substance pursuant to Health and Safety Code section 11055(a)(1)(k) and is a dangerous drug
27 pursuant to Business and Professions Code section 4022.

28 / / /

1 FIRST CAUSE FOR DISCIPLINE

2 (Diversion of Controlled Substance/Dangerous Drug)

3 14. Respondent is subject to disciplinary action under section 4301(f) of the
4 Code in that in or about March, 2007, while on duty as the Pharmacist In Charge (PIC) at Coram
5 Healthcare in Hayward, California (Coram), Respondent committed an act involving moral
6 turpitude, dishonesty, fraud, deceit, or corruption by diverting an unknown quantity of
7 Hydromorphone, a controlled substance, from Coram, as follows:

8 a. Respondent removed a 1cc syringe from Coram supplies, removed the
9 wrapper from the syringe, and threw the wrapper in the garbage. Respondent removed a
10 Hydromorphone vial, which was kept in a plastic bag, from a cabinet containing controlled
11 substances. Respondent put the needle into the Hydromorphone vial and drew the
12 Hydromorphone from the vial. Respondent made a motion consistent with placing his hand in
13 his pocket. Respondent left the room for approximately ten (10) minutes and, when he returned,
14 he disposed of the syringe in the "sharps" container.

15 SECOND CAUSE FOR DISCIPLINE

16 (Diversion of Controlled Substance/Dangerous Drug)

17 15. Respondent is subject to disciplinary action under section 4301(f) of the
18 Code in that on or about May 23, 2007, while on duty as the PIC at Coram, Respondent
19 committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption by diverting
20 an unknown quantity of Hydromorphone, a controlled substance, from Coram, as follows:

21 a. Respondent removed a Hydromorphone vial from the "white and blue
22 steri-cycle" container, which contained outdated drugs and vials for disposal. Respondent put the
23 Hydromorphone vial into his pocket and removed a 1cc syringe from Coram supplies.
24 Respondent went to the men's restroom. After Respondent returned from the restroom, he put
25 the Hydromorphone vial in the steri-cycle and put the syringe in the sharps container.
26 Respondent appeared disoriented, had a loss of balance, had slow speech, and collapsed for five
27 (5) seconds on a table.

28 / / /

1 THIRD CAUSE FOR DISCIPLINE

2 (Furnish a Controlled Substance)

3 16. Respondent is subject to disciplinary action under sections 4301(j) and/or
4 (o) of the Code for the violation of section 4059(a) of the Code in that Respondent unlawfully
5 furnished Hydromorphone, a controlled substance, to himself without a prescription, as set forth
6 in paragraphs 14 and 15, above.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Possession of Controlled Substance)

9 17. Respondent is subject to disciplinary action under sections 4301(j) and/or
10 (o) of the Code for the violation of section 4060 of the Code in that Respondent unlawfully
11 possessed Hydromorphone, a controlled substance, as set forth in paragraphs 14 and 15, above.

12 FIFTH CAUSE FOR DISCIPLINE

13 (Use of Controlled Substance)

14 18. Respondent is subject to disciplinary action under section 4301(h) of the
15 Code, in that Respondent used Hydromorphone, a controlled substance, to the extent or in a
16 manner as to be dangerous or injurious to oneself, to a person holding a license under this
17 chapter, or to any other person or to the public, or to the extent that the use impairs the ability of
18 the person to conduct with safety to the public the practice authorized by the license, as set forth
19 in paragraphs 14 and 15, above.

20 SIXTH CAUSE FOR DISCIPLINE

21 (Under the Influence of Dangerous Drugs While on Duty)

22 19. Respondent is subject to disciplinary action under sections 4301(j) and/or
23 (o) of the Code for the violation of section 4327 of the Code in that Respondent, while on duty
24 as the PIC at Coram, was under the influence of Hydromorphone, a dangerous drug, as set forth
25 in paragraphs 14 and 15, above.

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