

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

In the Matter of the Accusation Against:

**EUGENE HOON PARK
5150 Vista del Amigo
Yorba Linda, CA 92886**

Pharmacist License No. RPH 51040

Respondent.

Case No. 4755

OAH No. 2014 03 0798

DECISION AND ORDER

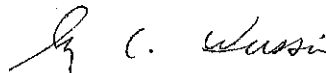
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 25, 2015.

It is so ORDERED on February 18, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER, Board President

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

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12 In the Matter of the Accusation Against:

Case No. 4755

13 **EUGENE HOON PARK**
14 **5150 Vista del Amigo**
Yorba Linda, CA 92886

OAH No. 2014 03 0798

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Pharmacist License No. RPH 51040**

16
17 Respondent.

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19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
22 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

23 **PARTIES**

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
25 She brought this action solely in her official capacity and is represented in this matter by Kamala
26 D. Harris, Attorney General of the State of California, by Lauro A. Paredes, Deputy Attorney
27 General.
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2. Respondent Eugene Hoon Park (Respondent) is represented in this proceeding by attorney Herbert L. Weinberg, Esq., whose address is 1800 Century Park East, 8th Fl. Los Angeles, CA 90067.

3. On or about September 2, 1999, the Board of Pharmacy issued Pharmacist License No. RPH 51040 to Eugene Hoon Park (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 4755 and will expire on November 30, 2016, unless renewed.

JURISDICTION

4. Accusation No. 4755 was filed before the Board of Pharmacy (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 6, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 4755 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4755. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 4755.

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

6 **CONTINGENCY**

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

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

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

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

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1. Suspension

As part of probation, respondent is suspended from the practice of pharmacy for 120 days beginning the effective date of this decision. Respondent will be given credit for any days he has been suspended from practice by the MAXIMUS Health Professionals Diversion Program up to a maximum of 120 days.

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

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

Respondent shall obey all state and federal laws and regulations.

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

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

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

14 **3. Report to the Board**

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

23 **4. Interview with the Board**

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

1 **5. Cooperate with Board Staff**

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

5 **6. Continuing Education**

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

8 **7. Notice to Employers**

9 During the period of probation, respondent shall notify all present and prospective
10 employers of the decision in case number 4755 and the terms, conditions and restrictions imposed
11 on respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 respondent undertaking any new employment, respondent shall cause his direct supervisor,
14 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
15 tenure of employment) and owner to report to the board in writing acknowledging that the listed
16 individual(s) has/have read the decision in case number 4755, and terms and conditions imposed
17 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
18 submit timely acknowledgment(s) to the board.

19 If respondent works for or is employed by or through a pharmacy employment service,
20 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
21 licensed by the board of the terms and conditions of the decision in case number 4755 in advance
22 of the respondent commencing work at each licensed entity. A record of this notification must be
23 provided to the board upon request.

24 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
25 (15) days of respondent undertaking any new employment by or through a pharmacy employment
26 service, respondent shall cause his direct supervisor with the pharmacy employment service to
27 report to the board in writing acknowledging that he has read the decision in case number 4755
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1 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
2 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

16 **9. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, respondent shall pay to the
18 board its costs of investigation and prosecution in the amount of \$10,617.00 Respondent shall
19 make said payments in a manner approved by the Board.

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

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

25 **10. Probation Monitoring Costs**

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

3 **11. Status of License**

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

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

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

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

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

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

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

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

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

6 **14. Tolling of Probation**

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

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

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

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

26 **15. Violation of Probation**

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

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

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

11 16. Completion of Probation

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

14 17. Pharmacists Recovery Program (PRP)

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

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

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

26 Probation shall be automatically extended until respondent successfully completes the PRP.

27 Any person terminated from the PRP program shall be automatically suspended by the board.

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

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

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

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

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

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

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

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

24 **18. Random Drug Screening**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 **21. Community Services Program**

2 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
3 board or its designee, for prior approval, a community service program in which respondent shall
4 provide free health-care related services on a regular basis to a community or charitable facility or
5 agency for at least 40 hours per year for the first three (3) of probation. Within thirty (30) days of
6 board approval thereof, respondent shall submit documentation to the board demonstrating
7 commencement of the community service program. A record of this notification must be
8 provided to the board upon request. Respondent shall report on progress with the community
9 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
10 program shall be considered a violation of probation.

11 **22. Supervised Practice**

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

17 Continuous -- At least 75% of a work week

18 Substantial - At least 50% of a work week

19 Partial - At least 25% of a work week

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

21 Within thirty (30) days of the effective date of this decision, respondent shall have his
22 supervisor submit notification to the board in writing stating that the supervisor has read the
23 decision in case number 4755 and is familiar with the required level of supervision as determined
24 by the board or its designee. It shall be the respondent's responsibility to ensure that his
25 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
26 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
27 acknowledgements to the board shall be considered a violation of probation.

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1 If respondent changes employment, it shall be the respondent's responsibility to ensure that
2 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
3 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
4 commences, submit notification to the board in writing stating the direct supervisor and
5 pharmacist-in-charge have read the decision in case number 4755 and is familiar with the level of
6 supervision as determined by the board. Respondent shall not practice pharmacy and his license
7 shall be automatically suspended until the board or its designee approves a new supervisor.
8 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
9 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

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1 **23. No Ownership of Licensed Premises**

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

9 **24. Tolling of Suspension**

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

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

22 **25. Ethics Course**

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

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

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26. Surrender of DEA Permit

Within thirty (30) days of the effective date of this decision, respondent shall surrender his or her Federal Drug Enforcement Administration (DEA) permit to the DEA, for cancellation. Respondent shall provide documentary proof of such cancellation to the board or its designee. Respondent is prohibited from prescribing until the board has received satisfactory proof of cancellation. Thereafter, respondent shall not apply/reapply for a DEA registration number without the prior written consent of the board or its designee.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg, Esq.. 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: January 14, 2015

Eugene Hoon Park
Respondent

I have read and fully discussed with Respondent Eugene Hoon Park the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/14/2015

Herbert L. Weinberg, Esq.
Attorney for Respondent

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ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



LAURO A. PAREDES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4755

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
4 State Bar No. 254663
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

Case No. 4755

13 **EUGENE HOON PARK**
14 **5150 Vista del Amigo**
Yorba Linda, CA 92886

A C C U S A T I O N

15 **Pharmacist License No. RPH 51040**

16 Respondent. -----

17
18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 2, 1999, the Board of Pharmacy issued Pharmacist License
24 Number RPH 51040 to Eugene Hoon Park (Respondent). The Pharmacist License was in full
25 force and effect at all times relevant to the charges brought herein and will expire on November
26 30, 2014, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation 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.

4. Section 4300 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

6. Section 4060 of the Code states:

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

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1 7. Section 4301 of the Code states:

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

7 ...

8 (b) Incompetence.

9 (c) Gross negligence.

10 ...

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

15 ...

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

22 ...

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

26 ...

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

32 ...

33 8. Health and Safety Code section 11357 states:

34 (a) Except as otherwise provided in this division, every person who
35 possesses (1) any controlled substance specified in subdivision (b) or (c), or
36 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph
37 (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
38 subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of

1
2 Section 11056, or (2) any controlled substance classified in Schedule III, IV,
3 or V which is a narcotic drug, unless upon the written prescription of a
4 physician, dentist, podiatrist, or veterinarian licensed to practice in this state,
shall be punished by imprisonment pursuant to subdivision (h) of Section
1170 of the Penal Code.

5 REGULATORY PROVISIONS

6 9. California Code of Regulations, title 16, section 1769, states:

7
8 (b) When considering the suspension or revocation of a facility or a
9 personal license on the ground that the licensee or the registrant has been
10 convicted of a crime, the board, in evaluating the rehabilitation of such
11 person and his present eligibility for a license will consider the following
12 criteria:

13 (1) Nature and severity of the act(s) or offense(s).

14 (2) Total criminal record.

15 (3) The time that has elapsed since commission of the act(s) or
16 offense(s).

17 (4) Whether the licensee has complied with all terms of parole,
18 probation, restitution or any other sanctions lawfully imposed against the
19 licensee.

20 (5) Evidence, if any, of rehabilitation submitted by the licensee.

21 10. California Code of Regulations, title 16, section 1770, states:

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

29 COST RECOVERY

30 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request
31 the administrative law judge to direct a licentiate found to have committed a violation or
32 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
33 and enforcement of the case. The Board may also include investigation and recovery costs in a
34 stipulated settlement.

DRUGS

12. Fentanyl is a Schedule II controlled substance as designated by Health and Safety Code Section 11055(c)(8), and is a dangerous drug pursuant to Business and Professions Code section 4022. Fentanyl is a narcotic (opioid) pain medicine.

13. Actiq a brand name for a formulation of fentanyl citrate a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a dangerous drug pursuant to Business and Professions Code section 4022. Actiq is dispensed in a lozenge form often on a stick like a popsicle and is designed to absorb slowly in the mouth. Actiq is many times more potent than morphine and is often prescribed for opiate tolerant individuals or for severe cancer breakthrough pain. Recently a generic form of Actiq has been introduced into the market referred to simply as fentanyl citrate.

14. Oxycodone, also sold under the brand name OxyContin, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a dangerous drug pursuant to Business and Professions Code section 4022.

15. Vicodin ES, a brand name for hydrocodone and acetaminophen, is a Schedule III controlled substance as designated by Health and Safety Code Section 11056(c), and is a dangerous drug pursuant to Business and Professions Code section 4022.

16. Clonazepam is a generic name for Klonopin, a Schedule IV substance under California Health and Safety Code section 11057(d)(7), and is a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Moral Turpitude)

17. Respondent is subject to disciplinary action for unprofessional conduct under section 4301(f) of the Code in that Respondent was dishonest and acted fraudulently in his procurement of prescriptions drugs. The circumstances are as follows:

a. At all times mentioned herein, Respondent was the Pharmacist in Charge of Campus Pharmacy in Loma Linda, California. Respondent admitted that he used his position to divert fentanyl citrate and used the drug to further his own addiction.

b. As the Pharmacist in Charge, Respondent was responsible for maintaining a proper accounting and inventory of the medication within the pharmacy. Respondent hid his drug diversion by ordering fentanyl citrate in its generic form and under its brand name "Actiq." Respondent ordered the drugs from a wholesale supplier that Campus Pharmacy did not use in the regular course of business and used his position of authority to circumvent the normal inventory, stocking and labeling procedures. A formal accounting of Campus Pharmacy's drug supply concluded that 6,000 doses of fentanyl citrate had been diverted. Table 1 below outlines the specific unaccounted for medication.

TABLE 1.

Medication	Unaccounted for Supply
Fentanyl Citrate (generic) 800 mcg	360
Actiq (brand name) 400 mcg	300
Actiq (brand name) 600 mcg	120
Actiq (brand name) 800 mcg	4,830
Actiq (brand name) 1200 mcg	120
Actiq (brand name) 1600 mcg	270

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Incompetence and Gross Negligence)

18. Respondent is subject to disciplinary action for unprofessional conduct under sections 4301 subdivision (b) and (c) in that he was grossly negligent and incompetent in maintaining an accurate supply of the drug inventory under his care. As the Pharmacist in Charge Respondent failed to maintain a secure and accurate count of the medication entrusted to him. Table 2 below outlines the specific unaccounted for medication.

TABLE 2.

Medication	Unaccounted for Supply
Clonazepam 0.5 mg	552
Clonazepam 1 mg	375

1	Clonazepam 2 mg	600
2	Hydrocodone/APAP 7.5/5 16z	2,097
3	Hydrocodone/APAP 7.5/500 16z	670
4	Oxycodone 10 mg	100
5	Oxycodone/APAP 10-325 mg	1,154
6	Oxycontin 20 mg	300
7	Oxycontin 30 mg	84
8	Oxycontin 40 mg	5
9	Oxycodone/APAP 17.5-325 mg	100

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Self-Administration of a Controlled Substance)

19. Respondent is subject to disciplinary action for unprofessional conduct under section 4301 subdivision (h) in that he self-administered to fentanyl citrate, a controlled substance, as outlined in paragraph 17, which is incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Possession of a Controlled Substance)

20. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301 subdivision (j), in that he possessed fentanyl citrate without a valid prescription in violation of Health and Safety Code section 11357. The circumstances are as outlined in paragraph 17, which is incorporated herein by reference.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Possession of a Controlled Substance)

21. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301 subdivisions (o), in that he possessed fentanyl citrate without a valid prescription in violation of section 4060 of the Code. The circumstances are as outlined in paragraph 17, which is incorporated herein by reference.

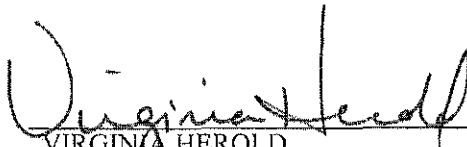
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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 51040, issued to Eugene Hoon Park;
2. Ordering Eugene Hoon Park to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/19/14



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

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