

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

In the Matter of the Accusation Against:

Case No. 5043

PHILIP VERNER OHLSON

P.O. Box 8182

Citrus Heights, CA 95621

Pharmacist License No. RPH 41078

Respondent.

DECISION AND ORDER

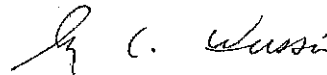
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 15, 2014.

It is so ORDERED on October 8, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5043

11 **PHILIP VERNER OHLSON**
12 **PO Box 8182**
13 **Cirtus Heights, CA 95621**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Pharmacist License No. RPH 41078**

15 Respondent.

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

19 **PARTIES**

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

24 2. Respondent Philip Verner Ohlson ("Respondent") is represented in this proceeding by
25 attorney Timothy Aspinwall, whose address is:

26 Timothy Aspinwall
27 Nossaman LLP
621 Capitol Mall, 25th floor
28 Sacramento CA 95814

3. On or about August 17, 1987, the Board of Pharmacy issued Pharmacist License No. RPH 41078 to Philip Verner Ohlson (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 5043 and will expire on November 30, 2014, unless renewed.

JURISDICTION

4. Accusation No. 5043 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 April 16, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 5043 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. 5043. 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 understands and agrees that the charges and allegations in Accusation
3 No. 5043, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
4 License.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

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

11 RESERVATION

12 12. The admissions made by Respondent herein are only for the purposes of this
13 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
14 licensing agency is involved, and shall not be admissible in any other criminal or civil
15 proceeding.

16 CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 41078, issued to Respondent Philip Verner Ohlson (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. Suspension

As part of probation, Respondent is suspended from the practice of pharmacy for 120 days beginning on the effective date of this decision. Upon timely provision of documentation by Respondent showing to the satisfaction of the board or its designee that at any time since April 1, 2013, Respondent has not worked as a pharmacist because he was (a) resident in an in-patient treatment program for alcohol and/or drug abuse, or (b) suspended or otherwise prohibited from working as a pharmacist at the direction of the Pharmacists Recovery Program, Respondent shall receive credit against this suspension period for such documented period(s) of non-work.

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

1 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
2 and controlled substances. Respondent shall not resume practice until notified by the board.

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

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

8 2. Tolling of Suspension

9 During the period of suspension, Respondent shall not leave California for any period
10 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
11 of ten (10) days during suspension shall be considered a violation of probation.

12 Moreover, any absence from California during the period of suspension exceeding ten (10)
13 days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over
14 ten (10) days Respondent is absent from California. During any such period of tolling of
15 suspension, Respondent must nonetheless comply with all terms and conditions of probation.

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

21 3. Obey All Laws

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

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

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

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

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

4. Report to the Board

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

5. Interview with the Board

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

6. Cooperate with Board Staff

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

///

1 **7. Continuing Education**

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

4 **8. Notice to Employers**

5 During the period of probation, respondent shall notify all present and prospective
6 employers of the decision in case number 5043 and the terms, conditions and restrictions imposed
7 on respondent by the decision, as follows:

8 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
9 respondent undertaking any new employment, respondent shall cause his direct supervisor,
10 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
11 tenure of employment) and owner to report to the board in writing acknowledging that the listed
12 individual(s) has/have read the decision in case number 5043, and terms and conditions imposed
13 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
14 submit timely acknowledgment(s) to the board.

15 If respondent works for or is employed by or through a pharmacy employment service,
16 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
17 licensed by the board of the terms and conditions of the decision in case number 5043 in advance
18 of the respondent commencing work at each licensed entity. A record of this notification must be
19 provided to the board upon request.

20 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
21 (15) days of respondent undertaking any new employment by or through a pharmacy employment
22 service, respondent shall cause his direct supervisor with the pharmacy employment service to
23 report to the board in writing acknowledging that he has read the decision in case number 5043
24 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
25 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

11 **10. Reimbursement of Board Costs**

12 As a condition precedent to successful completion of probation, respondent shall pay to the
13 board its costs of investigation and prosecution in the amount of \$5,000. Respondent shall be
14 permitted to pay these costs in a payment plan approved by the Board or its designee, so long as
15 full payment is made within fifty-four (54) months of the effective date of this decision.

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

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

21 **11. Probation Monitoring Costs**

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

26 ///

27 ///

28 ///

1 **12. Status of License**

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

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

9 **13. License Surrender While on Probation/Suspension**

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

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

23 **14. Notification of Change in Employment, Name, Address(es), or Phone(s)**

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

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

3 **15. Tolling of Probation**

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

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

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

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

23 **16. Violation of Probation**

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

29 If respondent violates probation in any respect, the board, after giving respondent notice
30 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that

1 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
2 probation, the board shall have continuing jurisdiction and the period of probation shall be
3 automatically extended until the petition to revoke probation or accusation is heard and decided.

4 **17. Completion of Probation**

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

7 **18. Pharmacists Recovery Program (PRP)**

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

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

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

19 Probation shall be automatically extended until Respondent successfully completes the
20 PRP. Any termination from the PRP program shall result in suspension by the board.
21 Respondent may not resume the practice of pharmacy until notified by the board in writing.

22 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
23 licensed practitioner as part of a documented medical treatment shall result in the automatic
24 suspension of practice by Respondent and shall be considered a violation of probation.
25 Respondent may not resume the practice of pharmacy until notified by the board in writing.

26 During any such suspension, respondent shall not enter any pharmacy area or any portion of
27 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
28 of drugs licensed by the board, or any manufacturer, or where dangerous drugs and devices or

1 controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
2 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
3 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
4 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
5 and controlled substances. Respondent shall not resume practice until notified by the board.

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

10 Failure to comply with any such suspension shall be considered a violation of probation.
11 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely
12 paid to the PRP shall constitute a violation of probation. The board will collect unpaid
13 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

14 **19. Random Drug Screening**

15 Respondent, at his own expense, shall participate in random testing, including but not
16 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
17 screening program for the detection of alcohol, narcotics, hypnotics, dangerous drugs or
18 controlled substances as the board or its designee may direct. Respondent may be required to
19 participate in testing for the entire probation period and frequency of testing will be determined
20 by the board or its designee. At all times, Respondent shall fully cooperate with the board or its
21 designee, and shall, when directed, submit to such tests and samples.

22 Failure to timely submit to testing as directed shall be considered a violation of probation.
23 Upon request of the board or its designee, Respondent shall provide documentation from a
24 licensed practitioner that the prescription for a detected drug was legitimately issued and is a
25 necessary part of the treatment of the Respondent. Failure to timely provide such documentation
26 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
27 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
28 shall be considered a violation of probation and shall result in automatic suspension of practice by

1 Respondent. Respondent may not resume practice until notified by the board in writing.

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

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

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

15 **20. Abstain from Drugs and Alcohol Use**

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

27 ///

28 ///

1 **21. Prescription Coordination and Monitoring of Prescription Use**

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

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

28 During suspension, respondent shall not enter any pharmacy area or any portion of the

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

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

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

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

16 **22. Community Services Program**

17 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
18 board or its designee, for prior approval, a community service program in which respondent shall
19 provide free health-care related services on a regular basis to a community or charitable facility or
20 agency for at least 64 hours per year for the first three years of probation. Within thirty (30) days
21 of board approval thereof, respondent shall submit documentation to the board demonstrating
22 commencement of the community service program. A record of this notification must be
23 provided to the board upon request. Respondent shall report on progress with the community
24 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
25 program shall be considered a violation of probation.

26 **23. Supervised Practice**

27 During the period of probation, Respondent shall practice only under the supervision of a
28 licensed pharmacist not on probation with the board. Upon and after the effective date of this

1 decision, Respondent shall not practice pharmacy and his license shall be automatically
2 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
3 as required by the board or its designee, either:

4 Continuous – At least 75% of a work week

5 Substantial - At least 50% of a work week

6 Partial - At least 25% of a work week

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

8 Within thirty (30) days of the effective date of this decision, Respondent shall have his
9 supervisor submit notification to the board in writing stating that the supervisor has read the
10 decision in case number 3751 and is familiar with the required level of supervision as determined
11 by the board or its designee. It shall be the Respondent's responsibility to ensure that his
12 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
13 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
14 acknowledgements to the board shall be considered a violation of probation.

15 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
16 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
17 acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15)
18 days after employment commences, submit notification to the board in writing stating the direct
19 supervisor and pharmacist-in-charge have read the decision in case number 3751 and is/are
20 familiar with the level of supervision as determined by the board. Respondent shall not practice
21 pharmacy and his license shall be automatically suspended until the board or its designee
22 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
23 submit timely acknowledgements to the board shall be considered a violation of probation.

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

25 During any such suspension, respondent shall not enter any pharmacy area or any portion of
26 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
27 of drugs licensed by the board, or any manufacturer, or where dangerous drugs and devices or
28 controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

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

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

9 Failure to comply with any such suspension shall be considered a violation of probation.

10 **24. Ethics Course**

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

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

17 **ACCEPTANCE**

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
19 discussed it with my attorney, Timothy Aspinwall. I understand the stipulation and the effect it
20 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
21 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
22 of the Board of Pharmacy.

23
24 DATED: 9/5/14


25 PHILIP VERNER OHLSON
26 Respondent


27 ///

28 ///

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

4
5 DATED:

9/5/14


TIMOTHY ASPINWALL
Attorney for Respondent

6
7
8
9 ENDORSEMENT

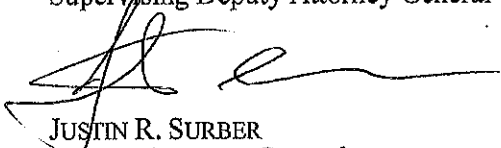
10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board of Pharmacy.

12
13 Dated:

9/5/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JUSTIN R. SURBER
Deputy Attorney General
Attorneys for Complainant

14
15
16
17
18
19
20
21 SF2014406796
22 41066962.docx
23
24
25
26
27
28

Exhibit A

Accusation No. 5043

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 5043

11 **PHILIP VERNER OHLSON**
12 **Sutter Delta Medical Center**
13 **3901 Lone Tree Way**
Antioch, CA 94509

A C C U S A T I O N

14 **Pharmacist License No. RPH 41078**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 17, 1987, the Board of Pharmacy issued Pharmacist License
22 Number RPH 41078 to Philip Verner Ohlson (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on November
24 30, 2014, unless renewed.

25 **JURISDICTION**

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

1
2 4. Section 4300 of the Code states:

3 "(a) Every license issued may be suspended or revoked.

4 "(b) The board shall discipline the holder of any license issued by the board, whose default
5 has been entered or whose case has been heard by the board and found guilty, by any of the
6 following methods:

7 "(1) Suspending judgment.

8 "(2) Placing him or her upon probation.

9 "(3) Suspending his or her right to practice for a period not exceeding one year.

10 "(4) Revoking his or her license.

11 "(5) Taking any other action in relation to disciplining him or her as the board in its
12 discretion may deem proper.

13 "..."

14 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
15 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
16 shall have all the powers granted therein. The action shall be final, except that the propriety of the
17 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
18 Procedure."

19 5. Section 4300.1 of the Code states:

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

25 6. Section 4301 of the Code states:

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

...

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

...

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

...

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

..."

7. Section 4022 of the Code states

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

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

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

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

8. 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

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

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

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

16 10. Health and Safety Code section 11170 states: "No person shall prescribe, administer,
17 or furnish a controlled substance for himself."

18 DRUGS INVOLVED

19 11. Hydrocodone/Acetaminophen (Brand name: Norco) is a controlled substance pursuant
20 to Health and Safety Code section 11056(e)(4) and a dangerous drug pursuant to Business and
21 Professions Code section 4022.

22 12. Lorazepam (Brand name Ativan) is a controlled substance pursuant to Health and
23 Safety Code section 11057(d)(16) and a dangerous drug pursuant to Business and Professions
24 Code section 4022.

25 FIRST CAUSE FOR DISCIPLINE

26 (Dangerous Use of Drugs)

27 13. Respondent is subject to disciplinary action under section 4301 subsection (h) of the
28 code in that Respondent self administered controlled substances and used dangerous drugs and

1 alcohol in a manner dangerous to himself and/or other. Respondent is an alcoholic. Between
2 approximately 2000 and about April 2013 drank alcohol in a manner that was dangerous to
3 himself or others. Respondent's drinking eventually led him to divert controlled substances,
4 including but not limited to Lorazepam and Hydrocodone/Acetaminophen from his employer,
5 Sutter Delta Medical Center. Respondent diverted the controlled substances between
6 approximately April 2012 and April 2013. Respondent diverted the controlled substances by
7 entering false information into the Pyxis medication dispensing device. Respondent used the
8 controlled substances he diverted without a prescription.

9 ~~SECOND CAUSE FOR DISCIPLINE~~

10 (Violation of Drug Laws)

11 14. Respondent is subject to disciplinary action under section 4301 subsection (j) of the
12 code in that Respondent violated the drug laws of California. Respondent violated code section
13 4060 and Health and Safety Code section 11170 by possessing and self administering controlled
14 substances without a prescription. The circumstances described in paragraph 12, above.

15 THIRD CAUSE FOR DISCIPLINE

16 (Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

17 15. Respondent is subject to disciplinary action under section 4301 subsection (f) in that
18 respondent committed acts involving moral turpitude, dishonesty, fraud and/or deceit. The
19 circumstances are described in paragraph 12, above.

20 PRAYER

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

23 1. Revoking or suspending Pharmacist License Number RPH 41078, issued to Philip
24 Verner Ohlson;

25 2. Ordering Philip Verner Ohlson to pay the Board of Pharmacy the reasonable costs of
26 the investigation and enforcement of this case, pursuant to Business and Professions Code section
27 125.3;

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: 4/5/14 Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2014406796
40853868.doc