

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

In the Matter of the Accusation Against:

Case No, 5110

RICHARD WINFIELD MOORE III
83638 Himilaya Drive
Indio, CA 92203

Pharmacist License No. RPH 64771

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 September 8, 2015.

It is so ORDERED on August 7, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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12 In the Matter of the Accusation Against:

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13 **RICHARD WINFIELD MOORE III**
83638 Himilaya Drive
14 **Indio, CA 92203**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Pharmacist License No. RPH 64771**
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 Sherry L. Ledakis, Deputy Attorney
23 General.

24 2. Respondent Richard Winfield Moore III ("Respondent") is representing himself in
25 this proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about October 5, 2010, the Board of Pharmacy issued Pharmacist License No.
27 RPH 64771 to Richard Winfield Moore III (Respondent). The Pharmacist License was in full

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1 force and effect at all times relevant to the charges brought in Accusation No. 5110 and will
2 expire on December 31, 2015, unless renewed.

3 JURISDICTION

4 4. Accusation No. 5110 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on June 30, 2014.

7 Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 5110 is attached as exhibit A and incorporated herein by
9 reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 5110. Respondent has also carefully read, and understands the effects of this
13 Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 5110.

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

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1 **1. Suspension**

2 As part of probation, respondent is suspended from the practice of pharmacy for 30 days
3 beginning the effective date of this decision. This condition may be waived if Respondent has
4 complied with this condition per the Board's pharmacist's recovery program.

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 devices or controlled substances.

13 Respondent shall not engage in any activity that requires the professional judgment of a
14 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.

15 Respondent shall not perform the duties of a pharmacy technician or a designated representative
16 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 **2. 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

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

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

9 **3. Report to the Board**

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

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

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

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1 **6. 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 **7. Notice to Employers**

5 During the period of probation, respondent shall notify all present and prospective
6 employers of the decision in case number 5110 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 5110, 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 5110 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 5110
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 **8. 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 **9. 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 \$9,000.00. Respondent shall
14 make said payments in a payment plan of \$150.00 per month.

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

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

20 **10. Probation Monitoring Costs**

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

25 **11. Status of License**

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

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

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

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

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

15 Respondent may not reapply for any license from the board for three (3) years from the effective
16 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
17 of the date the application for that license is submitted to the board, including any outstanding
18 costs.

19 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
20 **Employment**

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

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

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14. Tolling of Probation

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

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

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

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

Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses medication for a minimum of one year prior to the completion of probation. After the first year of probation, the board or its designee may consider a modification of this requirement. If respondent fails to comply with this requirement or a subsequent modification thereto, such failure shall be considered a violation of probation.

15. Violation of Probation

If respondent has not complied with any term or condition of probation, the board shall 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 Respondent shall work in a pharmacy setting with access to controlled substances for six
25 (6) consecutive months before successfully completing probation. If respondent fails to do so,
26 probation shall be automatically extended until this condition has been met. Failure to satisfy this
27 condition within six (6) months beyond the original date of expiration of the term of probation
28 shall be considered a violation of probation.

1 **18. Random Drug Screening**

2 Respondent, at his own expense, shall participate in random testing, including but not
3 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
4 screening program as directed by the board or its designee. Respondent may be required to
5 participate in testing for the entire probation period and the frequency of testing will be
6 determined by the board or its designee. At all times, respondent shall fully cooperate with the
7 board or its designee, and shall, when directed, submit to such tests and samples for the detection
8 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
9 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
10 of probation. Upon request of the board or its designee, respondent shall provide documentation
11 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
12 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
13 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
14 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
15 shall be considered a violation of probation and shall result in the automatic suspension of
16 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
17 notified by the board in writing.

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

26 During suspension, respondent shall not engage in any activity that requires the
27 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

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1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
2 designated representative for any entity licensed by the board.

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

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

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

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

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

20 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
21 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
22 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
23 history with the use of alcohol, controlled substances, and/or dangerous drugs and who will
24 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
25 substances or mood-altering drugs. The approved practitioner shall be provided with a copy of
26 the board's Accusation and decision. A record of this notification must be provided to the board
27 upon request. Respondent shall sign a release authorizing the practitioner to communicate with
28 the board about respondent's treatment(s). The coordinating physician, nurse practitioner,

1 physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of
2 probation regarding respondent's compliance with this condition. If any substances considered
3 addictive have been prescribed, the report shall identify a program for the time limited use of any
4 such substances. The board may require that the single coordinating physician, nurse practitioner,
5 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in
6 addictive medicine. Should respondent, for any reason, cease supervision by the approved
7 practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing
8 treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or
9 psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
10 timely submit the selected practitioner or replacement practitioner to the board for approval, or to
11 ensure the required reporting thereby on the quarterly reports, shall be considered a violation of
12 probation.

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

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

26 During suspension, respondent shall not engage in any activity that requires the
27 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

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1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
2 designated representative for any entity licensed by the board.

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

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

7 **21. Community Services Program**

8 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
9 board or its designee, for prior approval, a community service program in which respondent shall
10 provide free health-care related services on a regular basis to a community or charitable facility or
11 agency for at least 25 hours per year for a total of 125 hours of community service over the course
12 of probation. Respondent may perform more than 25 hours of service per year to accelerate
13 completion of the 125 hours requirement. Within thirty (30) days of board approval thereof,
14 respondent shall submit documentation to the board demonstrating commencement of the

15 community service program. A record of this notification must be provided to the board upon
16 request. Respondent shall report on progress with the community service program in the quarterly
17 reports. Failure to timely submit, commence, or comply with the program shall be considered a
18 violation of probation.

19 **22. Supervised Practice**

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

25 Continuous - At least 75% of a work week

26 Substantial - At least 50% of a work week

27 Partial - At least 25% of a work week

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

1 Within thirty (30) days of the effective date of this decision, respondent shall have his
2 supervisor submit notification to the board in writing stating that the supervisor has read the
3 decision in case number 5110 and is familiar with the required level of supervision as determined
4 by the board or its designee. It shall be the respondent's responsibility to ensure that his
5 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
6 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
7 acknowledgements to the board shall be considered a violation of probation.

8 If respondent changes employment, it shall be the respondent's responsibility to ensure that
9 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
10 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
11 commences, submit notification to the board in writing stating the direct supervisor and
12 pharmacist-in-charge have read the decision in case number 5110 and is familiar with the level of
13 supervision as determined by the board. Respondent shall not practice pharmacy and his license
14 shall be automatically suspended until the board or its designee approves a new supervisor.

15 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
16 acknowledgements to the board shall be considered a violation of probation.

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

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

26 During suspension, respondent shall not engage in any activity that requires the
27 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
28 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a

1 designated representative for any entity licensed by the board.

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

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

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

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

14 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
15 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
16 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
17 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
18 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
19 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
20 that interest, but only to the extent of that position or interest as of the effective date of this
21 decision. Violation of this restriction shall be considered a violation of probation.

22 **24. Tolling of Suspension**

23 During the period of suspension, respondent shall not leave California for any period
24 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
25 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
26 absence from California during the period of suspension exceeding ten (10) days shall toll the
27 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
28 respondent is absent from California. During any such period of tolling of suspension,

1 respondent must nonetheless comply with all terms and conditions of probation.

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

7 **25. Ethics Course**

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

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

14 **ACCEPTANCE**

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

19
20 DATED: 7/10/15 
21 RICHARD WINFIELD MOORE III
22 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: *July 15, 2015*

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

Sherry L. Ledakis
SHERRY L. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5110

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
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P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2078
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5110

12 **RICHARD WINFIELD MOORE III**
13 **83638 Himilaya Drive**
14 **Indio, CA 92203**

ACCUSATION

15 **Pharmacist License No. RPH 64771**

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about October 5, 2010, the Board of Pharmacy issued Pharmacist License
22 Number RPH 64771 to Richard Winfield Moore III (Respondent). The Pharmacist License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on December
24 31, 2015, unless renewed.

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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:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

(3) Restriction of type or circumstances of practice.

(4) Continuing participation in a board-approved rehabilitation program.

(5) Abstention from the use of alcohol or drugs.

(6) Random fluid testing for alcohol or drugs.

(7) Compliance with laws and regulations governing the practice of pharmacy.

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the

1 Government Code, and the board shall have all the powers granted therein. The
2 action shall be final, except that the propriety of the action is subject to review by the
3 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

4 STATUTORY PROVISIONS

5 5. Code Section 4059(a) states:

6 (a) A person may not furnish any dangerous drug, except upon the prescription
7 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
8 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
9 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
10 naturopathic doctor pursuant to Section 3640.7.

11 6. Code Section 4060 states:

12 A person shall not possess any controlled substance, except that furnished to a
13 person upon the prescription of a physician, dentist, podiatrist, optometrist,
14 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
15 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
16 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
17 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
18 pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
19 possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
20 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic
21 doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in
22 containers correctly labeled with the name and address of the supplier or producer.

23 This section does not authorize a certified nurse-midwife, a nurse practitioner, a
24 physician assistant, or a naturopathic doctor, to order his or her own stock of
25 dangerous drugs and devices.

26 7. Section 4301 of the Code states:

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

...

(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.

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

...

(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.

1
2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
3 abetting the violation of or conspiring to violate any provision or term of this chapter
4 or of the applicable federal and state laws and regulations governing pharmacy,
5 including regulations established by the board or by any other state or federal
6 regulatory agency.

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10 8. Health and Safety Code Section 11170 states:

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12 9. No person shall prescribe, administer, or furnish a controlled substance for
13 himself.

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15 10. Health and Safety Code Section 11173 states:

16 (a) No person shall obtain or attempt to obtain controlled substances, or
17 procure or attempt to procure the administration of or prescription for controlled
18 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
19 concealment of a material fact.

20 (b) No person shall make a false statement in any prescription, order, report, or
21 record, required by this division.

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, (CCR) Section 1714(d) states:

(d) Each pharmacist while on duty shall be responsible for the security of the
prescription department, including provisions for effective control against theft or
diversion of dangerous drugs and devices, and records for such drugs and devices.
Possession of a key to the pharmacy where dangerous drugs and controlled substances
are stored shall be restricted to a pharmacist.

COST RECOVERY

12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

DRUGS

1 18. A complete audit was performed at the Rite Aid and CVS stores where Respondent
2 filled the fraudulent prescriptions which revealed the following discrepancies attributable to
3 Respondent:

4 **Prescription # 1244030 Processed at Rite Aid Store # 5678:**

5 19. On or about January 18, 2011, Respondent received a prescription for Adderall XR 20
6 mg #60, from a physician in Rhode Island. On February 2, 2011, Respondent filled this
7 prescription for himself at Rite Aid Store #5678, in Coachella, California. Respondent performed
8 the data entry and the final review of this prescription indicating the prescription was verified and
9 accurate when he knew it was illegal to furnish controlled substances to himself.

10 **Prescription #772920:**

11 20. On or about February 22, 2011, Respondent obtained Rx #772920 from a physician in
12 Rhode Island for Adderall (dextroamphetamine) XR 20mg capsules. Respondent filled this
13 prescription for himself on March 7, 2011, at Rite Aid Store #5679, in Desert Hot Springs,
14 California. Respondent entered this prescription into the computer data base and audited it himself
15 as being accurate when he knew it was illegal to furnish controlled substances to himself.

16 **Prescription #780095:**

17 21. On or about April 7, 2011, Respondent obtained Rx #780095 for Adderall XR 20mg
18 #30, to be taken one tablet once per day, from a physician in Rhode Island. On April 18, 2011,
19 Respondent filled this prescription for himself at Rite Aid Store #5679 in Desert Hot Springs,
20 California, and audited it himself as being verified and accurate, when he knew it was illegal to
21 furnish controlled substances to himself.

22 **Prescription #215038, #574625 and #577180**

23 22. On or about January 23, 2012, Respondent obtained Rx #215038 for Adderall 20 mg,
24 #60 tablets to be taken two tablets twice per day from a physician in Bermuda Dunes, California.
25 Respondent filled this prescription on January 23, 2012 at the pharmacy in CVS Store #9153. The
26 pharmacist on duty, KS, changed the prescription to 10mg, #120. Respondent obtained a copy of
27 this prescription.

28

1 23. On or about March 15, 2012, Respondent fraudulently used a copy of Rx #215038 to
2 create and process Rx #574625 as if it was a new prescription, and reported it to CURES¹ as
3 Adderall 10 mg tablets, #120. There is no image of Rx #574625, but it is the same medication,
4 with the same directions for use and quantity as Rx #215038. Thereafter, Respondent changed the
5 prescription number again to Rx #577180, and filled it again at Rite Aid Store #5673 on March 15,
6 2012. Rx #577180 was not reported to CURES. Respondent admitted to investigators that he
7 had the Rx #215038 altered without the physician's consent or knowledge.

8 **Prescription #577967, Altered Prescription**

9 24. Sometime in 2011, Respondent received a prescription for Adderall XR 20 mg, #30
10 tablets for himself from a physician in Rhode Island. Sometime between 2011 and April 4, 2012,
11 Respondent altered this prescription and processed it under Rx #577967. Respondent altered the
12 prescription by folding the right corner of the prescription down to cover the true date and then
13 added a new date of "2/2/12" under the original date line. Respondent then filled it himself on
14 April 4, 2012, at Rite Aid Store #5673, in Blythe, California. The physician clearly wrote the
15 prescription for #30 tablets however; the box for #101-150 capsules had been checked. This
16 prescribing physician, however, did not write any prescriptions for Respondent after 2011.

17 **Prescriptions #581756 and #586485, Same Prescription Filled Three Times**

18 25. On or about April 25, 2012, a CURES report indicated that Respondent obtained
19 amphetamine salts 20 mg tablet, #60, for himself at Rite Aid Store #5673 under Rx # 581756. The
20 same day, Respondent changed Rx #581756 to Rx #586485. Rx #586485 was never reported to
21 CURES. Nevertheless, the same prescription was filled twice by Respondent on April 25, 2012 as
22 two different prescriptions. On or about May 1, 2012, Respondent again filled Rx #581756 as Rx
23 #586485 for himself as if it were a new prescription. Subsequently, on May 28, 2012, Respondent
24 used this same prescription a third time and filled it again; however, he did not change the
25 prescription number. There is not a hard copy or an image of this prescription anywhere in the

26 _____
27 ¹ CURES is an acronym for Controlled Substance Utilization Review and Evaluation
28 System, a program administered by the California Department of Justice to decrease the amount of
prescription drug abuse.

1 records; however, Respondent verified that the prescription was accurate.

2 **Prescription #586486**

3 26. On or about May 28, 2012, Respondent filled Rx #586486 for himself for Benzoyl
4 Peroxide 5% Wash, #237 ml. Although this is not a controlled substance, it is a dangerous drug
5 that requires a prescription pursuant to Business and Professions Code section 4022. There is not
6 a hard copy of the prescription; however there is a computer print-out that indicated the
7 prescription was written on March 27, 2012, and filled on May 28, 2012, and that Respondent
8 reviewed the prescription himself for accuracy.

9 **Prescription #608117**

10 27. On or about October 11, 2012, Respondent filled Rx #608117 for himself for
11 Amphetamine salts 20mg, #43 tablets at Rite Aid Store #5673. This location does not have a hard
12 copy of this prescription but there is a computer print-out documenting the prescription was for
13 Respondent, and that Respondent entered the prescription into the computer data base and verified
14 the prescription for accuracy when he knew it was illegal to furnish controlled substances to
15 himself.

16 28. According to the Department of Justice, Respondent obtained 1,110 tablets/capsules
17 of amphetamine salts over a twenty-two (22) month period. This is an average of over 50
18 tablets/capsules per month. Although, not all the prescriptions that Respondent filled for himself
19 are listed on the CURES report, for example Respondent obtained amphetamine salts under Rx
20 #586485 on three different occasions, and Respondent processed Rx #215038 under Rx #577180
21 and Rx #574625, but never reported these prescriptions to CURES.

22 29. During a discussion with investigators for Rite Aid, and the Board of Pharmacy,
23 Respondent admitted that he had falsified prescriptions for amphetamines. In a written statement
24 Respondent admitted that the reason there were no hard copies of the prescriptions at Rite Aid
25 Store #5673 was because he had the prescriptions filled at CVS pharmacies and felt compelled to
26 fill them again at Rite Aid without the hard copy.

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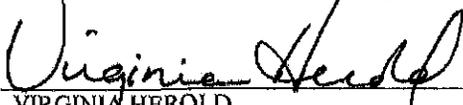
1 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
2 and that following the hearing, the Board of Pharmacy issue a decision:

3 1. Revoking or suspending Pharmacist License Number RPH 64771, issued to Richard
4 Winfield Moore, III;

5 2. Ordering Richard Winfield Moore, III to pay the Board of Pharmacy the reasonable
6 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
7 section 125.3; and

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

9 DATED: 6/16/14



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

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