

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

In the Matter of the Accusation Against:

**LOS ANGELES COUNTY HARBOR
UCLA MEDICAL CENTER PHARMACY
1000 West Carson Street
Torrance, CA 90502**

Pharmacy Permit No. HPE 4775

Respondents.

Case No. 5199

OAH No. 2015051098

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 at 5:00 p.m. on April 20, 2016.

It is so ORDERED on March 21, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Deborah Veale, RPh.
Board Vice President

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 CRISTINA FELIX
Deputy Attorney General
4 State Bar No. 195663
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2455
6 Facsimile: (213) 897-2804
E-mail: Cristina.Felix@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5199

12 **LOS ANGELES COUNTY HARBOR**
13 **UCLA MEDICAL CENTER PHARMACY**
14 **1000 West Carson Street**
15 **Torrance, CA 90502**

OAH No. 2015051098

16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

18 **Pharmacy Permit No. HPE 4775**

19 Respondents.

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

22 PARTIES

23 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
24 She brought this action solely in her official capacity and is represented in this matter by Kamala
25 D. Harris, Attorney General of the State of California, by Cristina Felix, Deputy Attorney
26 General.

27 2. Respondent Los Angeles County Harbor UCLA Medical Center Pharmacy
28 ("Respondent") is represented in this proceeding by attorney Jonathon Cohn, Esq., whose address
is: Arent Fox LLP, 555 West Fifth Street, 48th Floor, Los Angeles, CA 90013.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 5199.

4 10. Respondent agrees that its Pharmacy Permit is subject to discipline and they agree to
5 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 CONTINGENCY

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

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

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Permit No. HPE 4775 issued to Respondent Los
3 Angeles County Harbor UCLA Medical Center Pharmacy (Respondent) is revoked. However,
4 the revocation is stayed and Respondent is placed on probation for three (3) years on the
5 following terms and conditions.

6 **1. Obey All Laws**

7 Respondent owner shall obey all state and federal laws and regulations.

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

- 10 an arrest or issuance of a criminal complaint for violation of any provision of the
11 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
12 substances laws
- 13 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
14 criminal complaint, information or indictment
- 15 a conviction of any crime
- 16 discipline, citation, or other administrative action filed by any state or federal agency
17 which involves respondent's pharmacy permit or which is related to the practice of
18 pharmacy or the manufacturing, obtaining, handling or distributing, billing, or
19 charging for any drug, device or controlled substance.

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

21 **2. Report to the Board**

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

1 extended until such time as the final report is made and accepted by the board.

2 **3. Interview with the Board**

3 Upon receipt of reasonable prior notice, Respondent's Pharmacist in Charge and Chief
4 Executive Officer (CEO) shall appear in person for interviews with the board or its designee, at
5 such intervals and locations as are determined by the board or its designee. Failure to appear for
6 any scheduled interview without prior notification to board staff, or failure to appear for two (2)
7 or more scheduled interviews with the board or its designee during the period of probation, shall
8 be considered a violation of probation.

9 **4. Cooperate with Board Staff**

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

13 **5. Reimbursement of Board Costs**

14 As a condition precedent to successful completion of probation, respondent owner shall pay
15 to the board its costs of investigation and prosecution in the amount of \$7,082.50. Respondent
16 shall be permitted to pay these costs in a payment plan approved by the Board, with payments to
17 be completed no later than three months prior to the end of the probation term. There shall be no
18 deviation from this schedule absent prior written approval by the board or its designee. Failure to
19 pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

22 **6. Probation Monitoring Costs**

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

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1 **7. Status of License¹**

2 Respondent owner shall, at all times while on probation, maintain current licensure with the
3 board. If respondent owner submits an application to the board, and the application is approved,
4 for a change of location, change of permit or change of ownership, the board shall retain
5 continuing jurisdiction over the license, and the respondent shall remain on probation as
6 determined by the board. Failure to maintain current licensure shall be considered a violation of
7 probation.

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

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

13 Following the effective date of this decision, should respondent owner discontinue
14 business, respondent owner may tender the premises license to the board for surrender. The
15 board or its designee shall have the discretion whether to grant the request for surrender or take
16 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
17 the license, respondent will no longer be subject to the terms and conditions of probation.

18 Upon acceptance of the surrender, respondent owner shall relinquish the premises wall and
19 renewal license to the board within ten (10) days of notification by the board that the surrender is
20 accepted. Respondent owner shall further submit a completed Discontinuance of Business form
21 according to board guidelines and shall notify the board of the records inventory transfer.

22 Respondent owner shall also, by the effective date of this decision, arrange for the
23 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
24 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
25 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
26 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five

27 _____
28 ¹ License means license and/or pharmacy permit.

1 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy
2 of the written notice to the board. For the purposes of this provision, "ongoing patients" means
3 those patients for whom the pharmacy has on file a prescription with one or more refills
4 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
5 days.

6 Respondent owner may not apply for any new licensure from the board for three (3) years
7 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
8 to the license sought as of the date the application for that license is submitted to the board.

9 Respondent owner further stipulates that he or she shall reimburse the board for its costs of
10 investigation and prosecution prior to the acceptance of the surrender.

11 **9. Notice to Employees**

12 Respondent owner shall, upon or before the effective date of this decision, ensure that all
13 employees involved in permit operations are made aware of all the terms and conditions of
14 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
15 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
16 remain posted throughout the probation period. Respondent owner shall ensure that any
17 employees hired or used after the effective date of this decision are made aware of the terms and
18 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
19 respondent owner shall submit written notification to the board, within fifteen (15) days of the
20 effective date of this decision, that this term has been satisfied. Failure to submit such
21 notification to the board shall be considered a violation of probation.

22 "Employees" as used in this provision includes all full-time, part-time, volunteer,
23 temporary and relief employees and independent contractors employed or hired at any time
24 during probation.

25 **10. Owners and Officers: Knowledge of the Law**

26 Respondent shall provide, within thirty (30) days after the effective date of this decision,
27 signed and dated statements from Respondent's CEO stating under penalty of perjury that said
28 individuals have read and are familiar with state and federal laws and regulations governing the

1 practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall
2 be considered a violation of probation.

3 **11. Posted Notice of Probation**

4 Respondent owner shall prominently post a probation notice provided by the board in a
5 place conspicuous and readable to the public. The probation notice shall remain posted during
6 the entire period of probation.

7 Respondent owner shall not, directly or indirectly, engage in any conduct or make any
8 statement which is intended to mislead or is likely to have the effect of misleading any patient,
9 customer, member of the public, or other person(s) as to the nature of and reason for the probation
10 of the licensed entity.

11 Failure to post such notice shall be considered a violation of probation.

12 **12. Violation of Probation**

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

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

25 **13. Completion of Probation**

26 Upon written notice by the board or its designee indicating successful completion of
27 probation, respondent license will be fully restored.

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1 **14. Mandatory Education for Pharmacist Employees**

2 Respondent is required to provide within the ninety (90) days of the effective date of this
3 decision, for prior approval, an appropriate program of remedial education of at least ten (10)
4 hours related to maintaining security of controlled drugs, inventory control techniques and pyxis
5 security systems. The mandatory education shall be completed by any pharmacist currently
6 employed by Respondent, and required within four months of employment of any pharmacist
7 hired after the effective date of the decision. The education shall be at Respondent's own
8 expense. All remedial education shall be in addition to, and shall not be credited toward,
9 continuing education (CE) courses used for license renewal purposes.

10 Effective six months after the effective date of this decision, no pharmacist shall dispense
11 of any medication by the pharmacy until such mandatory education is completed.

12 Failure to timely submit or complete the approved remedial education shall be considered a
13 violation of probation. The period of probation will be automatically extended until such
14 remedial education is successfully completed and written proof, in a form acceptable to the board,
15 is provided to the board or its designee.

16 Six months after the effective date of this decision, if the pharmacy does not have any
17 pharmacist who has completed the mandatory education, the pharmacy shall not dispense any
18 medication. The pharmacy shall not dispense any medication until such time as it has at least one
19 pharmacist who has completed the mandatory education.

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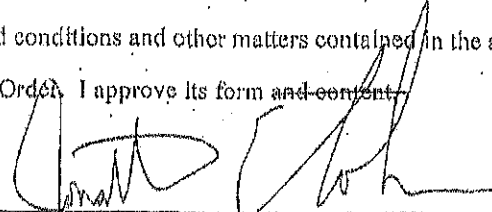
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jonathon Cohn, Esq. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 12/15/15 
Name: Kimberly McKenzie
Title: Interim CEO
LOS ANGELES COUNTY HARBOR UCLA
MEDICAL CENTER PHARMACY
Respondent

56 I have read ~~and fully discussed with Respondent Los Angeles County Harbor UCLA~~ *JEC*
~~Medical Center Pharmacy~~ the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12-16-15 
JONATHON COHN, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

Dated: 12/17/2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General


CRISTINA FELIX
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5199

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-4455
Facsimile: (510) 622-2270
7 E-mail: Geoffrey.Allen@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 5199

LOS ANGELES COUNTY HARBOR
UCLA MEDICAL CENTER PHARMACY
1000 West Carson Street
Torrance, CA 90509

ACCUSATION

Pharmacy Permit No. HPE 4775

Respondents.

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
2. On or about November 1, 1984, the Board of Pharmacy issued Pharmacy Permit Number HPB 4775 (Permit) to Los Angeles County Harbor UCLA Medical Center Pharmacy (Respondent). The Permit was in full force and effect at all times relevant to the charges brought this Accusation and will expire on November 1, 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 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

3 5. Section 4301 of the Code states:

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

7
8 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
9 abetting the violation of or conspiring to violate any provision or term of this
chapter or of the applicable federal and state laws and regulations governing
10 pharmacy, including regulations established by the board or by any other state or
federal regulatory agency.

11 6. California Code of Regulations, title 16, section 1714, subdivision b, states:

12 (b) Each pharmacy licensed by the board shall maintain its facilities, space,
13 fixtures, and equipment so that drugs are safely and properly prepared, maintained,
14 secured and distributed. The pharmacy shall be of sufficient size and unobstructed
area to accommodate the safe practice of pharmacy.

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

19 CAUSE FOR DISCIPLINE

20 (Failure to Maintain Operation Standards and Security)

21 8. Respondent Los Angeles County Harbor UCLA Medical Center Pharmacy Permit is
22 subject to disciplinary action under Code section 4301, subdivision (o); in that Respondent failed
23 to maintain operation standards and security as required by the California Code of Regulations,
24 Title 16, section 1714. The circumstances are as follows:

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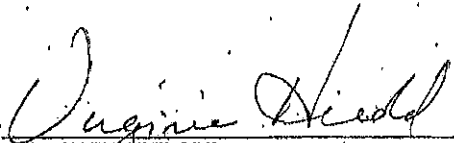
1 9. On or about April 11, 2012, and continuing to until about November 20, 2012,
2 approximately 963 vials of Fentanyl¹ 100 mcg/2 ml and 26 vials of Lorazepam² 2 mg/1 ml were
3 not properly secured by Respondent. The vials were taken by registered nurse E. H. without a
4 valid prescription or legal authority, and for her own personal use.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacy Permit Number HPE 4775, issued to Los Angeles
9 County Harbor UCLA Medical Center Pharmacy
- 10 2. Ordering Los Angeles County Harbor UCLA Medical Center Pharmacy to pay the
11 Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
12 pursuant to Business and Professions Code section 125.3;
- 13 3. Taking such other and further action as deemed necessary and proper.

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16 DATED: 2/2/15


17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant

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25 ¹ Fentanyl is a scheduled II controlled substance pursuant to Health and Safety code
26 section 11055(c)(8) and a dangerous drug pursuant to Business and Professions Code section
27 4022.

28 ² Lorazepam is a scheduled IV controlled substance pursuant to Health and Safety code
section 11057(d)(16) and a dangerous drug pursuant to Business and Professions Code section
4022