

ERRATA

Corrections to Stipulated Settlement and Disciplinary Order Case No. 5489

Stipulated Settlement and Disciplinary Order Case No. 5489, contains references to Pharmacy Permit No. PHY 49115 in the underlying disciplinary action entitled "In the Matter of the Accusation against Anderson Bros. Town & Country Pharmacy Inc. and Stephen Vincent Anderson" which, pursuant to a decision of the Board of Pharmacy became effective June 17, 2016. The Decision and Order page mistakenly referenced Pharmacy Permit No. PHY 49260 rather than Pharmacy Permit No. 49115. This clerical error is hereby corrected as part of the Board's Stipulated Settlement and Disciplinary Order. This Errata page shall become part of Respondent's disciplinary history with the Board. For the purposes of correcting the record, the following changes are hereby made to the Decision and Order:

Decision and Order:

Caption Box: Substitute "49260" for "49115"

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

In the Matter of the Accusation Against:

**ANDERSON BROS. TOWN & COUNTRY
PHARMACY, INC.**

Stephen Vincent Anderson, President

John Harold Anderson, Secretary

**2900 Fulton Avenue
Sacramento, CA 95821**

Pharmacy Permit No. PHY 49260

AND

STEPHEN VINCENT ANDERSON,

Pharmacist-In-Charge

**2900 Fulton Avenue
Sacramento, CA 95821**

Pharmacist License No. RPH 42685

Case No. 5489

OAH No. 2015100370

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

**(STEPHEN VINCENT ANDERSON,
RPH, PHARMACIST-IN-CHARGE)**

Respondents.

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 June 17, 2016.

It is so ORDERED on May 18, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

ORIGINAL

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
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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. 5489

12 **ANDERSON BROS. TOWN & COUNTRY**
13 **PHARMACY, INC.**

OAH No. 2015100370

13 **Stephen Vincent Anderson, President**
14 **John Harold Anderson, Secretary**
14 **2900 Fulton Avenue**
15 **Sacramento, California 95821**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

(STEPHEN VINCENT ANDERSON,
RPH, PHARMACIST-IN-CHARGE)

16 **Pharmacy Permit Number No. PHY 49115**

17 **And**

18 **STEPHEN VINCENT ANDERSON,**
18 **Pharmacist-In-Charge**
19 **2900 Fulton Avenue**
19 **Sacramento, California 95821**

20 **Pharmacist License Number No. RPH 42685**

21 Respondents.

22
23
24 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
25 entitled proceedings that the following matters are true:

26 **PARTIES**

27 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
28 ("Board"), Department of Consumer Affairs. She brought this action solely in her official

1 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of
2 California; by Leslie A. Burgermyer, Deputy Attorney General.

3 2. Respondent Stephen Vincent Anderson, Pharmacist-in-Charge of Anderson Bros.
4 Town & Country Pharmacy, Inc., is represented in this proceeding by attorneys Tony J. Park,
5 Esq. and Ivan Petrzelka, Esq., whose address is: California Pharmacy Lawyers, Law Office of
6 Tony J. Park, Inc., 2855 Michelle Drive, Suite 180, Irvine, California 92606-1027.

7 3. On or about August 8, 1989, the Board issued Pharmacist License Number No. RPH
8 42685 to Stephen Vincent Anderson ("Respondent"). The Pharmacist License was in full force
9 and effect at all times relevant to the charges brought in Accusation No. 5489 and will expire on
10 February 28, 2017, unless renewed. At all times alleged in Accusation No. 5489, Respondent
11 was the Pharmacist-in-Charge of co-Respondent Anderson Bros. Town & Country Pharmacy,
12 Inc.

13 JURISDICTION

14 4. Accusation No. 5489 was filed before the Board and is currently pending against
15 Respondent. The Accusation and all other statutorily required documents were properly served
16 on Respondent on September 23, 2015. Respondent timely filed his Notice of Defense contesting
17 the Accusation.

18 5. A true and correct copy of Accusation No. 5489 is attached hereto, marked Exhibit A,
19 and incorporated herein by reference.

20 ADVISEMENT AND WAIVERS

21 6. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in Accusation No. 5489. Respondent has also carefully read, fully
23 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
24 Order.

25 7. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
27 its own expense; the right to confront and cross-examine the witnesses against him; the right to
28 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel

1 the attendance of witnesses and the production of documents; the right to reconsideration and
2 court review of an adverse decision; and all other rights accorded by the California Administra-
3 tive Procedure Act and other applicable laws.

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

6 **CULPABILITY**

7 9. Respondent Stephen Anderson understands and agrees that the charges and allegations
8 in Accusation No. 5489, if proven at a hearing, constitute cause for imposing discipline under his
9 license.

10 10. For the purpose of resolving the Accusation without the expense and uncertainty of
11 further proceedings, Respondent Stephen Anderson agrees that, at a hearing, Complainant could
12 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up
13 his right to contest those charges and allegations.

14 11. Respondent Stephen Anderson agrees that his Pharmacist License Number 42685 is
15 subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in
16 the Disciplinary Order below.

17 **CONTINGENCY**

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

1 13. The parties understand and agree that Portable Document Format ("PDF") and
2 facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and
3 facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

13 **DISCIPLINARY ORDER**

14 **IT IS HEREBY ORDERED** that Pharmacist License Number RPH 42685 issued to
15 Stephen Vincent Anderson, Pharmacist-in-Charge of Anderson Bros. Town & Country
16 Pharmacy, Inc., ("Respondent") is revoked. However, the revocation is stayed and Respondent is
17 placed on probation for four (4) years on the following terms and conditions.

18 **1. Obey All Laws.** Respondent shall obey all state and federal laws and regulations.
19 Respondent shall report any of the following occurrences to the board, in writing, within seventy-
20 two (72) hours of such occurrence:

21 X an arrest or issuance of a criminal complaint for violation of any provision of the
22 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
23 laws

24 X a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
25 criminal complaint, information or indictment

26 X a conviction of any crime

27 X discipline, citation, or other administrative action filed by any state or federal
28 agency which involves Respondent's pharmacist license or which is related to the practice of

1 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any
2 drug, device or controlled substance.

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

4 **2. Report to the Board.** Respondent shall report to the board quarterly, on a schedule as
5 directed by the board or its designee. The report shall be made either in person or in writing, as
6 directed. Among other requirements, respondent shall state in each report under penalty of

7 perjury whether there has been compliance with all the terms and conditions of probation. Failure
8 to submit timely reports in a form as directed shall be considered a violation of probation. Any
9 period(s) of delinquency in submission of reports as directed may be added to the total period of
10 probation. Moreover, if the final probation report is not made as directed, probation shall be
11 automatically extended until such time as the final report is made and accepted by the Board.

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

18 **4. Cooperate with Board Staff.** Respondent shall cooperate with the Board's inspection
19 program and with the Board's monitoring and investigation of Respondent's compliance with the
20 terms and conditions of his probation. Failure to cooperate shall be considered a violation of
21 probation.

22 **5. Continuing Education.** Respondent shall provide evidence of efforts to maintain
23 skill and knowledge as a pharmacist as directed by the board or its designee.

24 **6. Notice to Employers.** During the period of probation, Respondent shall notify all
25 present and prospective employers of the decision in Accusation Number 5489 and the terms,
26 conditions and restrictions imposed on Respondent by the decision, as follows:

27 Within thirty (30) days of the effective date of this decision, and within fifteen (15)
28 days of Respondent undertaking any new employment, Respondent shall cause their direct

1 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during
2 respondent's tenure of employment) and owner to report to the Board in writing acknowledging
3 that the listed individual(s) has/have read the decision in Accusation Number 5489, and terms and
4 conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s)
5 and/or supervisor(s) submit timely acknowledgment(s) to the Board.

6 If Respondent works for or is employed by or through a pharmacy employment
7 service, Respondent must notify their direct supervisor, pharmacist-in-charge, and owner at every
8 entity licensed by the Board of the terms and conditions of the decision in Accusation Number
9 5489 in advance of the Respondent commencing work at each licensed entity. A record of this
10 notification must be provided to the Board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within
12 fifteen (15) days of Respondent undertaking any new employment by or through a pharmacy
13 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
14 service to report to the Board in writing acknowledging that he has read the decision in
15 Accusation Number 5489 and the terms and conditions imposed thereby. It shall be Respondent's
16 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledge-
17 ment(s) to the Board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those
19 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
20 probation.

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

25 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving**
26 **as Designated Representative-in-Charge, or Serving as a Consultant.** During the period of
27 probation, Respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or
28 designated representative-in-charge of any entity licensed by the Board nor serve as a consultant

1 unless otherwise specified in this order. Assumption of any such unauthorized supervision
2 responsibilities shall be considered a violation of probation.

3 **8. Reimbursement of Board Costs.** As a condition precedent to successful completion
4 of probation, Respondent Stephen Vincent Anderson, Pharmacist-in-Charge, and Respondent
5 Anderson Bros. Town & Country Pharmacy, Inc., (collectively referred to in this paragraph 8 as
6 "Respondents") shall be jointly and severally liable for payment of the cost recovery in this
7 matter and shall pay to the Board its costs of investigation and prosecution in the amount
8 \$7,154.75, and payable under terms to be determined by the Board or its designee.

9 The filing of bankruptcy by Respondent Stephen Vincent Anderson, Pharmacist-in-
10 Charge, and/or by Respondent Anderson Bros. Town & Country Pharmacy, Inc., shall not relieve
11 Respondents of their joint and several responsibility to reimburse the Board its costs of
12 investigation and prosecution.

13 **9. Probation Monitoring Costs.** Respondent shall pay any costs associated with
14 probation monitoring as determined by the Board each and every year of probation. Such costs
15 shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to
16 pay such costs by the deadline(s) as directed shall be considered a violation of probation.

17 **10. Status of License.** Respondent shall, at all times while on probation, maintain an
18 active, current license with the Board, including any period during which suspension or probation
19 is tolled. Failure to maintain an active, current license shall be considered a violation of
20 probation.

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

25 **11. License Surrender While on Probation and/or Suspension.** Following the
26 effective date of this decision, should Respondent cease practice due to retirement or health, or be
27 otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his
28 license to the Board for surrender. The Board or its designee shall have the discretion whether to

1 grant the request for surrender or take any other action it deems appropriate and reasonable.

2 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
3 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
4 become a part of the respondent's license history with the board.

5 Upon acceptance of the surrender, respondent shall relinquish their pocket and wall
6 license to the board within ten (10) days of notification by the board that the surrender is

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

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

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

19 **13. Tolling of Probation.** Except during periods of suspension, Respondent shall, at all
20 times while on probation, be employed as a pharmacist in California for a minimum of forty (40)
21 hours per calendar month. Any month during which this minimum is not met shall toll the period
22 of probation, i.e., the period of probation shall be extended by one month for each month during
23 which this minimum is not met. During any such period of tolling of probation, respondent must
24 nonetheless comply with all terms and conditions of probation.

25 Should Respondent, regardless of residency, for any reason (including vacation)
26 cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month in
27 California, Respondent must notify the board in writing within ten (10) days of the cessation of
28

1 practice, and must further notify the board in writing within ten (10) days of the resumption of
2 practice. Any failure to provide such notification(s) shall be considered a violation of probation.

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

6 "Cessation of practice" means any calendar month during which respondent is
7 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
8 Professions Code section 4000 et seq. "Resumption of practice" means any calendar month
9 during which Respondent is practicing as a pharmacist for at least forty (40) hours as a
10 pharmacist as defined by Business and Professions Code section 4000 et seq.

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

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

24 **15. Completion of Probation.** Upon written notice by the Board or its designee
25 indicating successful completion of probation, Respondent's license will be fully restored.

26 **16. Remedial Education.** Within sixty (60) days of the effective date of this decision,
27 respondent shall submit to the board or its designee, for prior approval, an appropriate program of
28 remedial education related to pharmacy operations and pharmacy law. The program of remedial

1 education shall consist of at least eighteen (18) hours, with six (6) hours required to be completed
2 during each of the first three (3) years of probation and at Respondent's own expense. All
3 remedial education shall be in addition to, and shall not be credited toward, continuing education
4 ("CE") courses used for license renewal purposes.

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

9 Following the completion of each course, the Board or its designee may require the
10 respondent, at their own expense, to take an approved examination to test the Respondent's
11 knowledge of the course. If the Respondent does not achieve a passing score on the examination,
12 this failure shall be considered a violation of probation. Any such examination failure shall
13 require respondent to take another course approved by the board in the same subject area.

14 **17. No Additional Ownership of Licensed Premises.** Respondent shall not acquire any
15 new ownership, legal or beneficial interest nor serve as a manager, administrator, member,
16 officer, director, trustee, associate, or partner of any additional business, firm, partnership, or
17 corporation licensed by the Board. During the probationary period, if Respondent Anderson
18 Bros. relocates from 2900 Fulton Avenue, Sacramento, California 95821, to a different location,
19 said relocation shall not be considered "new ownership" within the meaning of this paragraph 17.
20 If Respondent currently owns or has any legal or beneficial interest in, or serves as a manager,
21 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
22 partnership, or corporation currently or hereinafter licensed by the Board, Respondent may
23 continue to serve in such capacity or hold that interest, but only to the extent of that position or
24 interest as of the effective date of this decision. Violation of this restriction shall be considered a
25 violation of probation.

26 **18. Consultant for Owner or Pharmacist-In-Charge.** During the period of probation,
27 Respondent shall not supervise any intern pharmacist or serve as a consultant to any entity

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1 licensed by the Board. Respondent may be a pharmacist-in-charge. However, if during the
2 period of probation Respondent serves as a pharmacist-in-charge, Respondent shall retain an
3 independent consultant at his own expense who shall be responsible for reviewing pharmacy
4 operations on a monthly basis for compliance by Respondent with state and federal laws and
5 regulations governing the practice of pharmacy and for compliance by Respondent with the
6 obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not
7 on probation with the Board and whose name shall be submitted to the Board or its designee, for
8 prior approval, within thirty (30) days of the effective date of this decision. During the period of
9 probation, the Board or its designee, retains the discretion to reduce the frequency of the
10 pharmacist consultant's review of Respondent Anderson Bros. Town & country Pharmacy's
11 operations.

12 Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any
13 pharmacy of which they is not the sole owner. Failure to timely retain, seek approval of, or
14 ensure timely reporting by the consultant shall be considered a violation of probation.

15 **19. Ethics Course.** Within sixty (60) calendar days of the effective date of this decision,
16 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by
17 the Board or its designee. Failure to initiate the course during the first year of probation, and
18 complete it within the second year of probation, is a violation of probation.


19 Respondent shall submit a certificate of completion to the Board or its designee
20 within five (5) days after completing the course.

21 **ACCEPTANCE**

22 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
23 discussed it with my attorney, Tony Park, Esq., and/or Ivan Petrzela, Esq. I understand the
24 stipulation and the effect it will have on my Pharmacist License Number RPH 42685. I enter into

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27 ///
28 ///

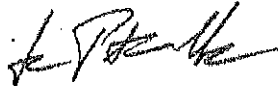
1 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
2 agree to be bound by the Decision and Order of the Board of Pharmacy.

3
4 DATED: 2/5/2016  *Pharm D*

5 STEPHEN VINCENT ANDERSON, RPH
6 PHARMACIST-IN-CHARGE
7 ANDERSON BROS. TOWN & COUNTRY
8 PHARMACY INC.
9 RESPONDENT

10 I have read and fully discussed with Respondent Stephen Vincent Anderson, Pharmacist-
11 in-Charge, Anderson Bros. Town & Country Pharmacy, Inc., the terms and conditions and other
12 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form
13 and content.

14 DATED: February 5, 2016

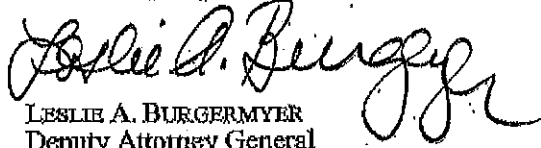

15 TONY J. PARK, ESQ. OR
16 IVAN PETRZELKA, ESQ.
17 ATTORNEYS FOR RESPONDENT
18 STEPHEN VINCENT ANDERSON, RPH
19 PHARMACIST-IN-CHARGE
20 ANDERSON BROS. TOWN & COUNTRY
21 PHARMACY, INC.

22 **ENDORSEMENT**

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

25 Dated: 2-5-2016

26 Respectfully submitted,
27 KAMALA D. HARRIS
28 Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General


LESLIE A. BURGERMYER
Deputy Attorney General
Attorneys for Complainant


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Exhibit A

Accusation No. 5489

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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5489

13 **ANDERSON BROS. TOWN & COUNTRY**
14 **PHARMACY, INC.**

15 **Stephen Vincent Anderson, President**
16 **John Harold Anderson, Secretary**
17 **2900 Fulton Avenue**
18 **Sacramento, California 95821**

ACCUSATION

19 **Pharmacy Permit Number No. PHY 49115**

20 **And**

21 **STEPHEN VINCENT ANDERSON,**
22 **Pharmacist-in-Charge**
23 **2900 Fulton Avenue**
24 **Sacramento, California 95821**

25 **Pharmacist License Number No. RPH 42685**

26 **Respondents.**

27 **Complainant alleges:**

28 **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, ("Board").

2. On or about September 11, 2008, the Board issued Pharmacy Permit Number PHY 49115 to Anderson Bros. Town & Country Pharmacy, Inc. ("Respondent Pharmacy"). The

1 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein
2 and will expire on September 1, 2016, unless renewed.

3 3. On or about August 8, 1989, the Board issued Pharmacist License Number RPH
4 42685 to Stephen Vincent Anderson ("Respondent Anderson"). The Pharmacist License was in
5 full force and effect at all times relevant to the charges brought herein and will expire on February
6 28, 2017, unless renewed. At all times alleged herein, Respondent Anderson was the Pharmacist-
7 in-Charge of Anderson Bros. Town & Country Pharmacy, Inc. within the meaning of Business
8 and Professions Code section 4113.

9 4. As used herein, "Respondents" shall collectively refer to Respondent Pharmacy and
10 Respondent Anderson.

11 JURISDICTION

12 5. This Accusation is brought before the Board under the authority of the following
13 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
14 indicated.

15 6. Section 4300 of the Code states, in pertinent part:

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

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

19 (1) Suspending judgment.

20 (2) Placing him or her upon probation.

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

23 (4) Revoking his or her license.

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

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1 7. Section 4300.1 of the Code states:

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

8 STATUTORY PROVISIONS

9 8. Code section 4301 states, in pertinent part:

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

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

17 9. Code section 4342 states, in pertinent part:

18 (a) The board may institute any action or actions as may be provided by law
19 and that, in its discretion, are necessary, to prevent the sale of pharmaceutical
20 preparations and drugs that do not conform to the standard and tests as to quality
21 and strength, provided in the latest edition of the United States Pharmacopoeia or
22 the National Formulary, or that violate any provision of the Sherman Food, Drug,
23 and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of
24 the Health and Safety Code).

25 10. Section 4022 of the Code states:

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

28 (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.

11. Code section 4023.5 states:

For the purpose of this chapter, "direct supervision and control" means that a
pharmacist is on the premises at all times and is fully aware of all activities performed
by either a pharmacy technician or intern pharmacist.

1 12. Code section 4081 states, in pertinent part:

2 (a) All records of manufacture and of sale, acquisition, receipt, shipment, or
3 disposition of dangerous drugs or dangerous devices shall be at all times during
4 business hours open to inspection by authorized officers of the law, and shall be
5 preserved for at least three years from the date of making. A current inventory shall
6 be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy,
7 veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian,
8 laboratory, clinic, hospital, institution, or establishment holding a currently valid
9 and unrevoked certificate, license, permit, registration, or exemption under Division
10 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4
11 (commencing with Section 16000) of Division 9 of the Welfare and Institutions
12 Code who maintains a stock of dangerous drugs or dangerous devices.

13 13. Code section 4113 states, in pertinent part:

14 (c) The pharmacist-in-charge shall be responsible for a pharmacy's
15 compliance with all state and federal laws and regulations pertaining to the practice
16 of pharmacy.

17 14. Code section 4114 states, in pertinent part:

18 (a) An intern pharmacist may perform all functions of a pharmacist at the
19 discretion of and under the direct supervision and control of a pharmacist whose
20 license is in good standing with the board.

21 15. Health and Safety Code section 111255 states:

22 Any drug or device is adulterated if it has been produced, prepared, packed, or
23 held under conditions whereby it may have been contaminated with filth, or
24 whereby it may have been rendered injurious to health.

25 16. Health and Safety Code section 111295 states:

26 It is unlawful for any person to manufacture, sell, deliver, hold, or offer for
27 sale any drug or device that is adulterated.

28 **REGULATORY PROVISIONS**

17. California Code of Regulations, title 16, section 1714 states, in pertinent part:

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

(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

18. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

BACKGROUND

19. On or about February 4, 2015, a Board inspector conducted a routine inspection of Respondent Pharmacy. Respondent Anderson is, and was, the Pharmacist-In-Charge at Respondent Pharmacy since on or about September 11, 2008.

20. During the February 4, 2015, routine inspection, the Board inspector observed two pharmacy interns, M.H. and K.P., performing pharmacist duties of final inspection verification while working alone in a room separate from on-duty Pharmacist C.J., and without the pharmacist's direct supervision and control.

21. During the February 4, 2015, routine inspection, the Board inspector found a room in the pharmacy where he observed shelves contained hundreds of vials, bottles, boxes, and punch cards of dangerous and controlled drugs. Most of them were labeled with Respondent Pharmacy's name, including patients' names, and categorized as follows:

a. "Return to stock prescriptions." The inspector observed this category to include filled and labeled vials and punch cards filled recently which had not been delivered to or picked up by patients, had not left the pharmacy, and were labeled as within the manufacturers' or pharmacy's labeled expiration date;

b. "Returned prescriptions." The inspector observed this category to include prescriptions that had been delivered or picked up by patients and returned to the pharmacy. The drugs included a combination of vials and punch cards, with Respondent Pharmacy's label, patients' names, labeled within the manufacturers' or pharmacy's expiration date or outside the expiration date. Sealed punch card cells contained none to many different drugs, and some had an empty cell with foil and paper shreds partially covering the cell;

1 c. "Outdated drugs." The inspector observed this category to include drugs that were
2 beyond the manufacturers' or Respondent Pharmacy's labeled expiration date and included
3 returned prescriptions (vials and punch cards) and handwritten notations as being expired;

4 d. "Unlabeled drugs." The inspector observed this category to include bottles and
5 vials containing outdated drugs.

6 22. The drugs mentioned in paragraph 20, and its subparts, above, were stored in a
7 manner that Respondent Anderson conceded to the inspector that he, Anderson, could not totally
8 distinguish whether the drugs were safe to use. Due to the intermingling of the drugs, it could not
9 be determined if they had not been altered, adulterated, or lacked quality.

10 23. Respondents failed to maintain an inventory record of the drugs allegedly returned to
11 the pharmacy from patients. The Board inspector instructed Respondents to prepare and submit
12 an inventory of the drugs and to destroy them. Attached hereto, marked Addendum A, and
13 incorporated herein is a true and correct copy of the inventory of drugs, referenced above, that
14 was prepared by Respondents and submitted to the Board on or about February 11, 2015.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Supervise Pharmacist Interns)**

17 24. Respondent Pharmacy is subject to disciplinary action under Code sections 4300 and
18 4301, subdivisions (j) and (o), in conjunction with Code section 4114, in that on or about
19 February 4, 2015, it failed to provide direct supervision and control of Interns M.H and K.P, as
20 alleged in paragraphs 19 and 20, above, incorporated herein by reference.

21 25. Respondent Anderson, Pharmacist-in-Charge of Respondent Pharmacy, is subject to
22 disciplinary action under Code sections 4300 and 4301, subdivisions (j) and (o), in conjunction
23 with Code section 4113, in that on or about February 4, 2015, he failed to provide direct
24 supervision and control of Interns M.H and K.P, as alleged in paragraphs 19 and 20, above,
25 incorporated herein by reference.

26 ///

27 ///

28 ///

SECOND CAUSE FOR DISCIPLINE

(Altered, Adulterated, Lack of Quality Drugs)

26. Respondent Pharmacy and Respondent Anderson, Pharmacist-in-Charge, are subject to disciplinary action under Code sections 4300 and 4301, subdivisions (j) and (o), in conjunction with Code sections 4081, subdivision (a), and 4342, subdivision (a), and Health and Safety Code sections 111255 and 111295, and California Code of Regulations, title 16, section 1714, subdivision (b), in that on or about February 4, 2015, they permitted drugs¹ that were altered, adulterated, and lacking quality to be included in the pharmacy's saleable drug stock, and which were indistinguishable from safe to use drugs that had not been altered, adulterated, or lacked quality as alleged in paragraphs 19, 21, and all of its subparts, 22, and 23, above, and Addendum A, hereto, all of which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Failed to Maintain Inventory)

27. Respondent Pharmacy is subject to disciplinary action under Code sections 4300 and 4301, subdivisions (j) and (o), in conjunction with California Code of Regulations, title 16, section 1714, subdivision (b), in that Respondent failed to maintain its facilities, space, fixtures, and equipment so that drugs in its stock were safely and properly prepared, maintained, secured and distributed, resulting in Respondent's failure to maintain an inventory of the drugs allegedly returned by patients, paragraphs 19, 21, and all of its subparts, 22, and 23, above, and Addendum A, hereto, all of which are incorporated herein by reference.

28. Respondent Anderson is subject to disciplinary action sections 4300 and 4300.1, subdivisions (j) and (o), in conjunction with California Code of Regulations, title 16, section 1714, subdivision (d), in that Respondent, the Pharmacist-in-Charge, failed to secure the prescription department of Respondent Pharmacy, failed to provide for the effective control against theft or diversion of dangerous drugs, and failed to provide for records of dangerous drugs, resulting in Respondent's failure to maintain an inventory of the drugs allegedly returned

¹ The drugs allegedly had been returned to Respondent Pharmacy by patients.


1 by patients, as set forth in paragraphs 19, 21, and all of its subparts, 22, and 23, above, and
2 Addendum A, hereto, all of which are incorporated herein by reference.

3 PRAYER

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

- 6 1. Revoking or suspending Pharmacy Permit Number PHY 49115 issued to Anderson
7 Bros. Town & Country Pharmacy, Inc.;
- 8 2. Revoking or suspending Pharmacist License Number RPH 42685 issued to Stephen
9 Vincent Anderson, Pharmacist-In-Charge for Anderson Bros. Town & Country Pharmacy Inc.;
- 10 3. Ordering Anderson Bros. Town & Country Pharmacy, Inc. and Stephen Vincent
11 Anderson to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement
12 of this case, pursuant to Business and Professions Code section 125.3;
- 13 4. Taking such other and further action as deemed necessary and proper.

14
15 DATED: 9/12/15


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

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