

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

In the Matter of the Accusation Against:

**CURTIS DEAN ANCAR
880 S. Jackson Avenue
San Jose, CA 95116**

Pharmacist License No. RPH 57345

Respondent.

Case No. 5693

OAH No. 2016070476

DECISION AND ORDER

The attached Stipulated Settlement of License and 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 October 25, 2017.

It is so ORDERED on September 25, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0982
Facsimile: (510) 622-2270
7 E-mail: Nicholas.Tsukamaki@doj.ca.gov
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5693

12 **CURTIS DEAN ANCAR**
13 **880 S. Jackson Avenue**
San Jose, CA 95116

OAH Case No. 2016070476

14 **Pharmacist License No. RPH57345**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

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

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Xavier Becerra, Attorney General of the State of California, by Nicholas Tsukamaki, Deputy
24 Attorney General.

25 2. Respondent Curtis Dean Ancar (Respondent) is represented in this proceeding by
26 attorney Anne Marchant, Esq., whose address is: Klein, Hockel, Iezza & Patel, P.C., 455 Market
27 Street, Suite 1480, San Francisco, CA 94105.

28 ///

1 3. On or about August 16, 2005, the Board issued Pharmacist License No. RPH57345 to
2 Curtis Dean Ancar (Respondent). The Pharmacist License was in full force and effect at all times
3 relevant to the charges brought in First Amended Accusation No. 5693 and will expire on July 31,
4 2019, unless renewed.

5 JURISDICTION

6 4. Accusation No. 5693 was filed before the Board on February 5, 2016. The
7 Accusation and all other statutorily required documents were properly served on Respondent on
8 February 22, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

9 5. First Amended Accusation No. 5693 was filed before the Board on May 5, 2017, and
10 is currently pending against Respondent. A copy of First Amended Accusation No. 5693 is
11 attached as exhibit A and is incorporated in this Stipulated Settlement by reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in First Amended Accusation No. 5693. Respondent has also carefully
15 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

26 ///

27 ///

28 ///

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 5693, if proven at a hearing, constitute cause for imposing discipline upon his
4 license.

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

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

11 CONTINGENCY

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

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

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

1 writing executed by an authorized representative of each of the parties.

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

5 **DISCIPLINARY ORDER**

6 IT IS HEREBY ORDERED that Pharmacist License No. RPH57345 issued to Respondent
7 Curtis Dean Ancar is revoked. However, the revocation is stayed and Respondent is placed on
8 probation for five (5) years on the following terms and conditions.

9 **1. Obey All Laws**

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

11 Respondent shall report any of the following occurrences to the Board, in writing, within
12 seventy-two (72) hours of such occurrence:

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

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

24 **2. Report to the Board**

25 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
26 designee. The report shall be made either in person or in writing, as directed. Among other
27 requirements, Respondent shall state in each report under penalty of perjury whether there has
28 been compliance with all the terms and conditions of probation. Failure to submit timely reports

1 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
2 in submission of reports as directed may be added to the total period of probation. Moreover, if
3 the final probation report is not made as directed, probation shall be automatically extended until
4 such time as the final report is made and accepted by the Board.

5 **3. Interview with the Board**

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

11 **4. Cooperate with Board Staff**

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

15 **5. Continuing Education**

16 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
17 pharmacist as directed by the Board or its designee.

18 **6. Notice to Employers**

19 During the period of probation, Respondent shall notify all present and prospective
20 employers of the Decision in case number 5693, and the terms, conditions and restrictions
21 imposed on Respondent by the Decision, as follows:

22 Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of
23 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
24 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
25 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
26 individual(s) has/have read the Decision in case number 5693, and terms and conditions imposed
27 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
28 supervisor(s) submit timely acknowledgment(s) to the Board.

1 If Respondent works for or is employed by or through a pharmacy employment service,
2 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
3 licensed by the Board of the terms and conditions of the Decision in case number 5693 in advance
4 of Respondent commencing work at each licensed entity. A record of this notification must be
5 provided to the Board upon request.

6 Furthermore, within thirty (30) days of the effective date of this Decision, and within fifteen
7 (15) days of Respondent undertaking any new employment by or through a pharmacy
8 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
9 service to report to the Board in writing acknowledging that he has read the Decision in case
10 number 5693 and the terms and conditions imposed thereby. It shall be Respondent's
11 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
12 acknowledgment(s) to the Board.

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

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

20 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
21 **Designated Representative-in-Charge, or Serving as a Consultant**

22 During the period of probation, Respondent shall not supervise any intern pharmacist, be
23 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
24 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
25 unauthorized supervision responsibilities shall be considered a violation of probation.

26 **8. Reimbursement of Board Costs**

27 As a condition precedent to successful completion of probation, Respondent shall pay the
28 Board its costs of investigation and prosecution in the amount of \$12,500.00. Respondent may

1 pay those costs pursuant to a payment plan. There shall be no deviation from that plan absent
2 prior written approval by the Board or its designee. Failure to pay costs by the deadline(s) as
3 directed shall be considered a violation of probation.

4 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
5 reimburse the Board its costs of investigation and prosecution.

6 **9. Probation Monitoring Costs**

7 Respondent shall pay any costs associated with probation monitoring as determined by the
8 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
9 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
10 shall be considered a violation of probation.

11 **10. Status of License**

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

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

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

20 Following the effective date of this Decision, should Respondent cease practice due to
21 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
22 Respondent may tender his license to the Board for surrender. The Board or its designee shall
23 have the discretion whether to grant the request for surrender or take any other action it deems
24 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
25 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
26 record of discipline and shall become a part of the Respondent's license history with the Board.

27 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
28 to the Board within ten (10) days of notification by the Board that the surrender is accepted.

1 Respondent may not reapply for any license from the Board for three (3) years from the effective
2 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
3 of the date the application for that license is submitted to the Board, including any outstanding
4 costs.

5 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
6 **Employment**

7 Respondent shall notify the Board in writing within ten (10) days of any change of
8 employment. Said notification shall include the reasons for leaving, the address of the new
9 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
10 shall further notify the Board in writing within ten (10) days of a change in name, residence
11 address, mailing address, or phone number.

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

14 **13. Tolling of Probation**

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

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

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

1 “Cessation of practice” means any calendar month during which Respondent is not
2 practicing as a pharmacist for at least forty (40) hours, as defined by Business and Professions
3 Code section 4000 et seq. “Resumption of practice” means any calendar month during which
4 Respondent is practicing as a pharmacist for at least forty (40) hours as a pharmacist as defined
5 by Business and Professions Code section 4000 et seq.

6 **14. Violation of Probation**

7 If a Respondent has not complied with any term or condition of probation, the Board shall
8 have continuing jurisdiction over Respondent, and probation shall automatically be extended until
9 all terms and conditions have been satisfied or the Board has taken other action as deemed
10 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
11 to impose the penalty that was stayed.

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

20 **15. Completion of Probation**

21 Upon written notice by the Board or its designee indicating successful completion of
22 probation, Respondent’s license will be fully restored.

23 **16. Remedial Education**

24 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
25 Board or its designee, for prior approval, an appropriate program of remedial education related to
26 corresponding responsibility and prescription drug abuse. The program of remedial education
27 shall consist of a total of thirty (30) hours as follows: six (6) hours per year of probation; 50% of
28 the hours must be completed in person. These hours must be completed at Respondent’s own

1 expense. All remedial education shall be in addition to, and shall not be credited toward,
2 continuing education (CE) courses used for license renewal purposes.

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

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

12 17. Supervised Practice

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

18 Continuous - At least 75% of a work week;

19 Substantial - At least 50% of a work week;

20 Partial - At least 25% of a work week; or

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

22 Within thirty (30) days of the effective date of this Decision, Respondent shall have his
23 supervisor submit notification to the Board in writing stating that the supervisor has read the
24 Decision in case number 5693 and is familiar with the required level of supervision as determined
25 by the Board or its designee. It shall be Respondent's responsibility to ensure that his
26 employer(s), pharmacist-in-charge, and/or supervisor(s) submit timely acknowledgement(s) to the
27 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
28 acknowledgements to the Board shall be considered a violation of probation.

1 If Respondent changes employment, it shall be Respondent's responsibility to ensure that
2 his employer(s), pharmacist-in-charge, and/or supervisor(s) submit timely acknowledgement(s) to
3 the Board. Respondent shall have his new supervisor, within fifteen (15) days after employment
4 commences, submit notification to the Board in writing stating the direct supervisor and
5 pharmacist-in-charge have read the Decision in case number 5693 and is familiar with the level of
6 supervision as determined by the Board. Respondent shall not practice pharmacy and his license
7 shall be automatically suspended until the Board or its designee approves a new supervisor.
8 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
9 acknowledgements to the Board shall be considered a violation of probation.

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

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

14 **18. No Ownership of Licensed Premises**

15 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
16 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
17 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
18 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
19 days following the effective date of this Decision and shall immediately thereafter provide written
20 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
21 documentation thereof shall be considered a violation of probation.

22 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
23 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
24 business, firm, partnership, or corporation licensed by the Board. If Respondent currently owns
25 or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
26 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
27 or hereinafter licensed by the Board, Respondent may continue to serve in such capacity or hold
28 that interest, but only to the extent of that position or interest as of the effective date of this

1 Decision. A violation of this restriction shall be considered a violation of probation.

2 19. **Ethics Course**

3 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall
4 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its
5 designee. Failure to initiate the course during the first year of probation, and complete it within
6 the second year of probation, is a violation of probation.

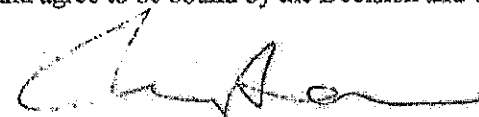
7 Respondent shall submit a certificate of completion to the Board or its designee within five
8 days after completing the course.

9

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Anne Marchant. I understand the stipulation and the effect it will
13 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
14 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
15 Board of Pharmacy.

16 DATED: 7/23/17



CURTIS DEAN ANCAR
Respondent

17

18 I have read and fully discussed with Respondent Curtis Dean Ancar the terms and
19 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

20 I approve its form and content.

21 DATED: 7/24/2017



ANNE MARCHANT
Attorney for Respondent

22

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

29 ///

30 ///

31 ///

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

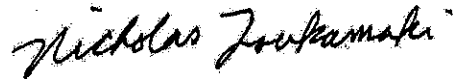
ENDORSEMENT

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

Dated: July 28, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General



NICHOLAS TSUKAMAKI
Deputy Attorney General
Attorneys for Complainant

SF2015900911
90815715.doc

Exhibit A

First Amended Accusation No. 5693

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0982
Facsimile: (510) 622-2270
7 E-mail: Nicholas.Tsukamaki@doj.ca.gov
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. 5693

12 **CURTIS DEAN ANCAR**
13 **880 S. Jackson Avenue**
San Jose, CA 95116

FIRST AMENDED ACCUSATION

14 **Pharmacist License No. RPH 57345**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about August 16, 2005, the Board of Pharmacy issued Pharmacist License
22 Number RPH 57345 to Curtis Dean Ancar (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought in this First Amended Accusation and
24 will expire on July 31, 2017, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Business & Professions Code, section 4000 et seq.] and the Uniform
3 Controlled Substances Act [Health & Safety Code, section 11000 et seq.]

4 5. Section 4300, subdivision (a), of the Code provides that every license issued may be
5 suspended or revoked.

6 6. Section 4300.1 of the Code states:

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

12 STATUTORY PROVISIONS

13 7. Section 4113, subdivision (c) of the Code states: “The pharmacist-in-charge shall be
14 responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining
15 to the practice of pharmacy.”

16 8. Section 4301 of the Code provides, in pertinent part:

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

20 ...

21 “(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a)
22 of Section 11153 of the Health and Safety Code.

23 ...

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

26 ...

27 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violation of or conspiring to violate any provision or term of this chapter or of the applicable

1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency.”

3 9. Section 4306.5 of the Code provides, in pertinent part:

4 “Unprofessional conduct for a pharmacist may include any of the following:

5 “(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or
6 her education, training, or experience as a pharmacist, whether or not the act or omission arises in
7 the course of the practice of pharmacy or the ownership, management, administration, or
8 operation of a pharmacy or other entity licensed by the board.

9 “(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement
10 his or her best professional judgment or corresponding responsibility with regard to the
11 dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with
12 regard to the provision of services.

13 “(c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate
14 patient, prescription, and other records pertaining to the performance of any pharmacy function.”

15 10. Health and Safety Code section 11153, subdivision (a) states:

16 “A prescription for a controlled substance shall only be issued for a legitimate medical
17 purpose by an individual practitioner acting in the usual course of his or her professional practice.
18 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
19 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
20 prescription. Except as authorized by this division, the following are not legal prescriptions:

21 (1) an order purporting to be a prescription which is issued not in the usual course of professional
22 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
23 controlled substances, which is issued not in the course of professional treatment or as part of an
24 authorized narcotic treatment program, for the purpose of providing the user with controlled
25 substances, sufficient to keep him or her comfortable by maintaining customary use.”

26 11. Health and Safety Code section 11200, subdivision (b) states:

27 “No prescription for a Schedule III or IV substance may be refilled more than five times
28 and in an amount, for all refills of that prescription taken together, exceeding a 120 day supply.”

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

COST RECOVERY

12. Section 125.3 of the Code provides, 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.

FACTUAL ALLEGATIONS

13. From August 26, 2005, through the present, Respondent has been the Pharmacist-in-Charge (PIC) of Rite Aid Pharmacy #5952.

14. On or about January 27, 2015, a Board inspector conducted a routine inspection of a Target pharmacy in Citrus Heights, California, and observed prescribing irregularities involving doctor C.J. The Board Inspector requested and reviewed Controlled Substance Utilization Review and Evaluation System (CURES) data relating to C.J., and determined that Rite Aid Pharmacy #5952 dispensed more controlled substance prescriptions for C.J. than any other pharmacy in the data.

15. On or about March 12, 2015, Board Inspectors conducted an inspection at Rite Aid Pharmacy #5952. A review of prescription dispensing data for prescriptions written by C.J. and other prescribers between January 1, 2012, and March 12, 2015, and dispensed by Rite Aid Pharmacy #5952 revealed the following irregularities or "red flags":

- a. Rite Aid Pharmacy #5952 dispensed high doses of Oxycodone when normal use would involve starting at a lower dose and titrating the dose upward depending on patient needs,
- b. Rite Aid Pharmacy #5952 dispensed a total of 32,086 tablets of Oxycodone 30 mg to a single patient.
- c. For Oxycodone 30 mg prescriptions written by C.J., the average number of tablets prescribed per patient was 338.

///

///

1 d. Rite Aid Pharmacy #5952 dispensed a prescription for 420 tablets of Oxycodone
2 30 mg for "breakthrough pain" that did not have a logical connection with the treatment on the
3 prescription.

4 e. Rite Aid Pharmacy #5952 dispensed over 19,000 tablets of Oxycodone 30 mg to a
5 patient without first obtaining the results of a test Respondent had requested that the patient
6 undergo to determine whether the patient was taking the prescribed medication.

7 f. Rite Aid Pharmacy #5952 dispensed 77 controlled substance prescriptions, a total of
8 2,560 dosage units, in excess of the amount allowed by law.

9 g. Respondent failed to verify, or have verified, high doses and high quantities of
10 Oxycodone 30 mg for certain patients.

11 h. Respondent failed to verify, or have verified, overlapping prescriptions from multiple
12 doctors.

13 i. Rite Aid Pharmacy #5952 dispensed "drug cocktails" of highly addictive and
14 commonly abused combinations of controlled substances without effective inquiry or proper
15 verification.

16 j. Rite Aid Pharmacy #5952 dispensed controlled substances to patients with no
17 prescription history with Rite Aid Pharmacy #5952, who were making cash or discount card
18 payments, without effective inquiry or proper verification.

19 k. Rite Aid Pharmacy #5952 dispensed controlled substances for patients of C.J. and
20 doctor A.R. when the prescribing practices of those prescribers had been called into question.

21 l. Rite Aid Pharmacy #5952 dispensed 227 prescriptions for controlled substances early
22 and before previous supplies were exhausted.

23 m. Rite Aid Pharmacy #5952 dispensed prescriptions written by prescribers whose
24 practices were located outside of Rite Aid Pharmacy #5952's service area without effective
25 inquiry or proper verification.

26 n. Rite Aid Pharmacy #5952 dispensed prescriptions for patients who lived outside of
27 Rite Aid Pharmacy #5952's service area without effective inquiry or proper verification.

28 ///

1 16. Respondent failed to exercise his corresponding responsibility to determine whether
2 the prescriptions described above in Paragraph 15 were issued for a legitimate medical purpose
3 and in the usual course of professional practice.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Failure to Exercise Corresponding Responsibility In Dispensing Controlled Substances)**

6 17. Respondent has subjected his Pharmacist License to disciplinary action under sections
7 4113, subdivision (c), 4301, subdivisions (j) and/or (o), and 4306.5, subdivision (b) of the Code,
8 and/or Health and Safety Code section 11153, subdivision (a), in that Respondent failed to
9 exercise or implement his best professional judgment and/or corresponding responsibility to
10 ensure that controlled substances were dispensed for a legitimate medical purpose. The
11 circumstances of this conduct are set forth above in Paragraphs 13 through 16.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Excessive Furnishing of Controlled Substances)**

14 18. Respondent has subjected his Pharmacist License to disciplinary action under sections
15 4113, subdivision (c) and 4301, subdivision (d) of the Code, in that Rite Aid Pharmacy #5952
16 furnished clearly excessive amounts of controlled substances in violation of Health and Safety
17 Code section 11153, subdivision (a). The circumstances of this conduct are set forth above in
18 Paragraphs 13 through 16.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Excessive Refilling of Controlled Substances)**

21 19. Respondent has subjected his Pharmacist License to disciplinary action under sections
22 4113, subdivision (c) and 4301, subdivisions (j) and/or (o) of the Code, and Health and Safety
23 Code section 11200, subdivision (b), in that Rite Aid Pharmacy #5952 refilled certain Schedule
24 III and/or IV controlled substance prescriptions more than five times and/or in amounts exceeding
25 a 120 day supply. The circumstances of this conduct are set forth above in Paragraphs 13 through
26 15.

27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Misuse of Education, Training, and/or Experience)**

3 20. Respondent has subjected his Pharmacist License to disciplinary action under sections
4 4113, subdivision (c), 4301, and 4306.5, subdivision (a) of the Code, in that Respondent
5 inappropriately exercised his education, training, and/or experience as a pharmacist with respect
6 to the prescriptions dispensed by Rite Aid Pharmacy #5952 described above in Paragraph 15.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Failure to Consult Appropriate Records)**

9 21. Respondent has subjected his Pharmacist License to disciplinary action under sections
10 4113, subdivision (c), 4301, and 4306.5, subdivision (c) of the Code, in that Respondent failed to
11 consult appropriate patient, prescription, and/or other records with respect to the prescriptions
12 dispensed by Rite Aid Pharmacy #5952 described above in Paragraph 15.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct)**

15 22. Respondent has subjected his Pharmacist License to disciplinary action under section
16 4301 of the Code in that he engaged in unprofessional conduct. The circumstances of this
17 conduct are set forth above in Paragraphs 13 through 16.

18 **DISCIPLINE CONSIDERATIONS**

19 23. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant alleges that on or about February 24, 2014, in a prior action, the Board issued
21 Citation Number CI 2013-59752 to Respondent for failing to provide a consultation, in violation
22 of section 4113, subdivision (c) of the Code, as defined in California Code of Regulations, title
23 16, section 1707.2, subdivision (b)(1)(A). Respondent was ordered to pay a fine in the amount of
24 \$1,000.00. That Citation is now final and is incorporated by reference as if fully set forth herein.

25 ///

26 ///

27 ///

28 ///

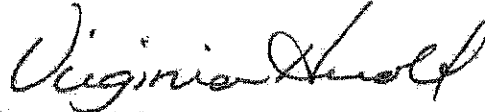
1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
3 First Amended Accusation, and that following the hearing, the Board of Pharmacy issue a
4 decision:

- 5 1. Revoking or suspending Pharmacist License Number RPH 57345 issued to Curtis
6 Dean Ancar;
- 7 2. Ordering Curtis Dean Ancar to pay the Board of Pharmacy the reasonable costs of the
8 investigation and enforcement of this case pursuant to Business and Professions Code section
9 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

11
12 DATED:

5/5/17



13 VIRGINIA HEROLD
14 Executive Officer
15 Board of Pharmacy
16 Department of Consumer Affairs
17 State of California
18 Complainant

19 SF2015900911
20 90777462.docx