

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

In the Matter of the Accusation Against:
**PLUMAS DISTRICT HOSPITAL,
dba PLUMAS DISTRICT HOSPITAL PHARMACY
DOUGLAS LAFFERTY, ADMINISTRATOR
DAN CARL LEGRADY, PHARMACIST-IN-CHARGE
1065 Bucks Lake Road
Quincy, California 95971**

Case No. 5709

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RAYMOND MIRANDA DURO ONLY**

**Hospital Pharmacy Permit No. HPE 32553 (Eff. 1/9/86-2/9/16)
Drug Room Permit No. DRE 32553 (Eff. 2/9/16)**

**DARLENE DANO
7112 Regard Way
Sacramento, California 95842**

Pharmacist License No. RPH 35371

**CHERYL ANN MUSSELL
P.O. Box 982
Quincy, California 95971**

Pharmacy Technician Registration No. TCH 135012,

and

**RAYMOND MIRANDA DURO
3218 Diamond Ridge Drive
Reno, Nevada 89523**

Pharmacist License No. RPH 61786

Respondents.

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 19, 2017.

It is so ORDERED on October 19, 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 JANICE K. LACHMAN
Supervising Deputy Attorney General
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19 Pharmacist License No. RPH 35371,

20 **CHERYL ANN MUSSELL**
21 P.O. Box 982
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22 Pharmacy Technician Registration No. TCH 135012,
23 and

24 **RAYMOND MIRANDA DURO**
3218 Diamond Ridge Drive
25 Reno, Nevada 89523

26 Pharmacist License No. RPH 61786

27 Respondents.

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

3 **PARTIES**

4 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
5 (Board). She brought this action solely in her official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Kristina T. Jarvis, Deputy
7 Attorney General.

8 2. Respondent Raymond Miranda Duro (Respondent Duro) is represented by attorney
9 Joe Rose, whose address is Rose Law APC 11335 Gold Express Drive, Suite 135, Gold River,
10 California 95670.

11 3. On or about January 9, 1986, the Board issued Hospital Pharmacy Permit Number
12 HPE 32553 to Plumas District Hospital ("Respondent PDH"), doing business as Plumas District
13 Hospital Pharmacy. On or about July 18, 2011, Douglas Lafferty became the administrator. On
14 or about July 15, 2014, Jeffrey Kepple, M.D., became the CEO. The hospital pharmacy permit
15 was in full force and effect at all times relevant to the charges brought herein and was cancelled
16 on or about February 9, 2016. On or about February 9, 2016, the Board issued Drug Room
17 Permit Number DRE 32553 to Respondent PDH, doing business as Plumas District Hospital
18 Pharmacy. On or about February 9, 2016, Jeffrey Monaghan became the consultant pharmacist
19 for the Drug Room Permit. The following licensed pharmacists were the pharmacists-in-charge
20 of record for Respondent PDH during the time periods indicated below.

<u>Pharmacist-in-Charge</u>	<u>Date Associated</u>	<u>Date Disassociated</u>
Mark LeRoy	November 9, 2012	September 30, 2013
Darlene Dano	October 25, 2013	November 27, 2013
Viktoria Zaita	February 11, 2014	June 24, 2014
Karen L. Schad	September 24, 2014	July 9, 2015
Michael Demetrius Farros	July 9, 2015	October 12, 2015
Douglas Milton Mclaskey	October 12, 2015	October 30, 2015
Dan Carl LeGrady	October 30, 2015	November 9, 2015
Andrew Diesh	November 9, 2015	November 29, 2016
Richard Foster	November 29, 2016	February 9, 2016

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1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 11. Respondent Duro voluntarily, knowingly, and intelligently waives and gives up each
4 and every right set forth above.

5 **CULPABILITY**

6 12. Respondent Duro understands and agrees that the charges and allegations in
7 Accusation No. 5709, if proven at a hearing, constitute cause for imposing discipline upon his
8 Pharmacist License.

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

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

15 **CONTINGENCY**

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

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

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1 **2. Report to the Board**

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

10 **3. Interview with the Board**

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

16 **4. Cooperate with Board Staff**

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

20 **5. Continuing Education**

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

23 **6. Notice to Employers**

24 During the period of probation, respondent shall notify all present and prospective
25 employers of the decision in case number 5709 and the terms, conditions and restrictions imposed
26 on respondent by the decision, as follows:

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

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
2 tenure of employment) and owner to report to the board in writing acknowledging that the listed
3 individual(s) has/have read the decision in case number 5709, and terms and conditions imposed
4 thereby. It shall be respondent's responsibility to ensure that their employer(s) and/or
5 supervisor(s) submit timely acknowledgment(s) to the board.

6 If respondent works for or is employed by or through a pharmacy employment service,
7 respondent must notify their direct supervisor, pharmacist-in-charge, and owner at every entity
8 licensed by the board of the terms and conditions of the decision in case number 5709 in advance
9 of the respondent commencing work at each licensed entity. A record of this notification must be
10 provided to the board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
12 (15) days of respondent undertaking any new employment by or through a pharmacy employment
13 service, respondent shall cause their direct supervisor with the pharmacy employment service to
14 report to the board in writing acknowledging that they has read the decision in case number 5709
15 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
16 that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

24
25 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as
Designated Representative-in-Charge, or Serving as a Consultant**

26 During the period of probation, respondent shall not supervise any intern pharmacist, be the
27 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board

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1 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
2 unauthorized supervision responsibilities shall be considered a violation of probation.

3 **8. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$3,396.75. Respondent shall
6 make said payments as follows: within sixty (60) days of the effective date of this order or in a
7 payment plan approved in writing by the board or its designee.

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

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

13 **9. Probation Monitoring Costs**

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

18 **10. Status of License**

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

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

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

27 Following the effective date of this decision, should respondent cease practice due to
28 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,

1 respondent may tender their license to the board for surrender. The board or its designee shall
2 have the discretion whether to grant the request for surrender or take any other action it deems
3 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
4 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
5 record of discipline and shall become a part of the respondent's license history with the board.

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

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

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

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

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

21 **13. Tolling of Probation**

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

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

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

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

14 **14. Violation of Probation**

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

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

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1 **15. Completion of Probation**

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

4 **16. Remedial Education**

5 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
6 board or its designee, for prior approval, an appropriate program of remedial education related to
7 the role of a Pharmacist-In-Charge, Pharmacy Law, and Hospital Operations. The program of
8 remedial education shall consist of at least eight (8) hours per year of probation for a total of
9 twenty-four (24) hours, which shall be completed at respondent's own expense. At least fifty
10 percent (50%), or twelve (12) total hours must be in-person, classroom-based training. All
11 remedial education shall be in addition to, and shall not be credited toward, continuing education
12 (CE) courses used for license renewal purposes.

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

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

22 **17. No Ownership of Licensed Premises**

23 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
24 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
25 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
26 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
27 days following the effective date of this decision and shall immediately thereafter provide written

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1 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
2 documentation thereof shall be considered a violation of probation.

3 **18. Ethics Course**

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

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

10 **ACCEPTANCE**

11 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
12 stipulation and the effect it will have on my Hospital Pharmacy Permit. I enter into this
13 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
14 to be bound by the Decision and Order of the Board of Pharmacy.

15 DATED: 8/14/17 
16 RAYMOND MIRANDA DURO
17 Respondent

18 **APPROVAL AS TO FORM AND CONTENT**

19 I have read and fully discussed with Respondent Raymond Miranda Duro the terms and
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
21 for Public Repeal. I approve its form and content.

22 DATED: August 14, 2017 
23 JOE ROSE
24 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: August 15, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



KRISTINA T. JARVIS
Deputy Attorney General
Attorneys for Complainant

Exhibit A
Accusation No. 5709

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JARVIS
Deputy Attorney General
4 State Bar No. 258229
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ACCUSATION

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19 **2/9/16)**
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28 **Pharmacy Technician Registration No. TCH 135012,**

and

29 **RAYMOND MIRANDA DURO**
30 **3218 Diamond Ridge Drive**
31 **Reno, Nevada 89523**

32 **Pharmacist License No. RPH 61786**

Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about January 9, 1986, the Board issued Hospital Pharmacy Permit Number
6 HPE 32553 to Plumas District Hospital (“Respondent PDH”), doing business as Plumas District
7 Hospital Pharmacy. On or about July 18, 2011, Douglas Lafferty became the administrator. The
8 hospital pharmacy permit was in full force and effect at all times relevant to the charges brought
9 herein and was cancelled on or about February 9, 2016. On or about February 9, 2016, the Board
10 issued Drug Room Permit Number DRE 32553 to Respondent PDH, doing business as Plumas
11 District Hospital Pharmacy. On or about February 9, 2016, Jeffrey Monaghan became the
12 consultant pharmacist for the Drug Room Permit. The following licensed pharmacists were the
13 pharmacists-in-charge of record for Respondent PDH during the time periods indicated below.

<u>Pharmacist-in-Charge</u>	<u>Date Associated</u>	<u>Date Disassociated</u>
Mark LeRoy	November 9, 2012	September 30, 2013
Darlene Dano	October 25, 2013	November 27, 2013
Viktoria Zaita	February 11, 2014	June 24, 2014
Karen L. Schad	September 24, 2014	July 9, 2015
Michael Demetrius Farros	July 9, 2015	October 12, 2015
Douglas Milton McLaskey	October 12, 2015	October 30, 2015
Dan Carl LeGrady	October 30, 2015	November 9, 2015
Andrew Diesh	November 9, 2015	November 29, 2016
Richard Foster	November 29, 2016	February 9, 2016

21 3. On or about August 11, 1980, the Board issued Pharmacist License Number RPH
22 35371 to Darlene Dano (“Respondent Dano”). The pharmacist license was in full force and effect
23 at all times relevant to the charges brought herein and will expire on February 28, 2018, unless
24 renewed.

25 4. On or about September 5, 2013, the Board issued Pharmacy Technician Registration
26 Number TCH 135012 to Cheryl Ann Mussell (“Respondent Mussell”). The pharmacy technician
27 registration was in full force and effect at all times relevant to the charges brought herein and will
28 expire on October 31, 2016, unless renewed.

1 5. On or about October 15, 2008, the Board issued Pharmacist License Number RPH
2 61786 to Raymond Miranda Duro ("Respondent Duro"). The pharmacist license was in full force
3 and effect at all times relevant to the charges brought herein and will expire on May 31, 2018,
4 unless renewed.

5 **JURISDICTION/STATUTORY AND REGULATORY PROVISIONS**

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

9 7. Code section 4300 states, in pertinent part:

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

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

13 (1) Suspending judgment.

14 (2) Placing him or her upon probation.

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

17 (4) Revoking his or her license.

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

19 8. Code section 4300.1 states:

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

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

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

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(c) Gross negligence.

....

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

....

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

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or 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 pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

....

(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board . . .

10. Code section 4059.5, subdivision (a), states:

Except as otherwise provided in this chapter, dangerous drugs or dangerous devices may only be ordered by an entity licensed by the board and shall be delivered to the licensed premises and signed for and received by a pharmacist. Where a licensee is permitted to operate through a designated representative, the designated representative shall sign for and receive the delivery.

11. Code section 4113 states, in pertinent part:

(a) Every pharmacy shall designate a pharmacist-in-charge and, within 30 days thereof, shall notify the board in writing of the identity and license number of that pharmacist and the date he or she was designated.

....

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

(d) Every pharmacy shall notify the board in writing, on a form designed by the board, within 30 days of the date when a pharmacist-in-charge ceases to act as the pharmacist-in-charge, and shall on the same form propose another pharmacist to take over as the pharmacist-in-charge. The proposed replacement pharmacist-in-charge shall be subject to approval by the board. If disapproved, the pharmacy shall propose another replacement within 15 days of the date of disapproval and shall continue to name proposed replacements until a pharmacist-in-charge is approved by the board . . .

1 12. Code section 4115 states, in pertinent part:

2 (a) A pharmacy technician may perform packaging, manipulative,
3 repetitive, or other nondiscretionary tasks only while assisting, and while under the
4 direct supervision and control of, a pharmacist. The pharmacist shall be responsible
5 for the duties performed under his or her supervision by a technician.

6 (b) This section does not authorize the performance of any tasks specified
7 in subdivision (a) by a pharmacy technician without a pharmacist on duty.

8 (c) This section does not authorize a pharmacy technician to perform any
9 act requiring the exercise of professional judgment by a pharmacist . . .

10 13. Code section 4329 states:

11 Any nonpharmacist who takes charge of or acts as supervisor, manager,
12 or pharmacist-in-charge of any pharmacy, or who compounds or dispenses a
13 prescription or furnishes dangerous drugs except as otherwise provided in this
14 chapter, is guilty of a misdemeanor.

15 14. Code section 4322 states, in pertinent part:

16 Any person who . . . fraudulently represents himself or herself to be
17 registered, is guilty of a misdemeanor, and upon conviction thereof shall be punished
18 by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment not
19 exceeding 50 days, or by both that fine and imprisonment.

20 15. Title 21, Code of Federal Regulations ("CFR"), section 1304.11, subdivision (c),
21 states:

22 Biennial inventory date. After the initial inventory is taken, the registrant
23 shall take a new inventory of all stocks of controlled substances on hand at least every
24 two years. The biennial inventory may be taken on any date which is within two years
25 of the previous biennial inventory date.

26 16. Title 21, CFR, section 1305.05, subdivision (a), states:

27 A registrant may authorize one or more individuals, whether or not
28 located at his or her registered location, to issue orders for Schedule I and II
controlled substances on the registrant's behalf by executing a power of attorney for
each such individual, if the power of attorney is retained in the files, with executed
Forms 222 where applicable, for the same period as any order bearing the signature of
the attorney. The power of attorney must be available for inspection together with
other order records.

17. Title 21, CFR, section 1305.12, subdivision (d), states:

Each DEA Form 222 must be signed and dated by a person authorized to
sign an application for registration or a person granted power of attorney to sign a
Form 222 under §1305.05. The name of the purchaser, if different from the individual

1 signing the DEA Form 222, must also be inserted in the signature space.

2 18. Title 16, Code of California Regulations ("CCR"), section 1714, subdivision (b),
3 states:

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

7 19. Title 16, CCR, section 1718 states:

8 "Current Inventory" as used in Sections 4081 and 4332 of the Business
9 and Professions Code shall be considered to include complete accountability for all
10 dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

10 The controlled substances inventories required by Title 21, CFR, Section
11 1304 shall be available for inspection upon request for at least 3 years after the date of
12 the inventory.

12 20. Title 16, CCR, section 1735.2 states, in pertinent part:

13

14 (i) The pharmacist performing or supervising compounding is responsible
15 for the proper preparation, labeling, storage, and delivery of the compounded drug
16 product.

16 (j) Prior to allowing any drug product to be compounded in a pharmacy,
17 the pharmacist-in-charge shall complete a self-assessment for compounding
18 pharmacies developed by the board. (Incorporated by reference is "Community
19 Pharmacy & Hospital Outpatient Pharmacy Compounding Self-Assessment" Form
20 17M-39 Rev. 02/12.) That form contains a first section applicable to all
21 compounding, and a second section applicable to sterile injectable compounding. The
22 first section must be completed by the pharmacist-in-charge before any compounding
23 is performed in the pharmacy. The second section must be completed by the
24 pharmacist-in-charge before any sterile injectable compounding is performed in the
25 pharmacy. The applicable sections of the self-assessment shall subsequently be
26 completed before July 1 of each odd-numbered year, within 30 days of the start of a
27 new pharmacist-in-charge, and within 30 days of the issuance of a new pharmacy
28 license. The primary purpose of the self-assessment is to promote compliance through
self-examination and education.

24 21. Title 16, CCR, section 1735.3 states, in pertinent part:

25 (a) For each compounded drug product, the pharmacy records shall
26 include:

27

28 (4) The identity of the pharmacist reviewing the final drug product.

1 22. Title 22, CCR, section 70263, states, in pertinent part:

2 (a) All hospitals having a licensed bed capacity of 100 or more beds shall
3 have a pharmacy on the premises licensed by the California Board of Pharmacy.
4 Those hospitals having fewer than 100 licensed beds shall have a pharmacy license
5 issued by the Board of Pharmacy pursuant to Section 4029 or 4056 of the Business
6 and Professions Code.

7

8 (c) A pharmacy and therapeutics committee, or a committee of equivalent
9 composition, shall be established. The committee shall consist of at least one
10 physician, one pharmacist, the director of nursing service or his or her representative
11 and the administrator or his or her representative.

12

13 (f) Supplies of drugs for use in medical emergencies only shall be
14 immediately available at each nursing unit or service area as required.

15

16 (3) The supply shall be inspected by a pharmacist at periodic intervals
17 specified in written policies. Such inspections shall occur no less frequently than
18 every 30 days. Records of such inspections shall be kept for at least three years.

19

20 (n) The hospital shall establish a supply of medications which is
21 accessible without entering either the pharmacy or drug storage room during hours
22 when the pharmacist is not available. Access to the supply shall be limited to
23 designated registered nurses. Records of drugs taken from the supply shall be
24 maintained and the pharmacist shall be notified of such use. The records shall include
25 the name and strength of the drug, the amount taken, the date and time, the name of
26 the patient to whom the drug was administered and the signature of the registered
27 nurse. The pharmacist shall be responsible for maintenance of the supply and assuring
28 that all drugs are properly labeled and stored. The drug supply shall contain that type
and quantity of drugs necessary to meet the immediate needs of patients as
determined by the pharmacy and therapeutics committee.

29 **COST RECOVERY**

30 23. Code section 125.3 provides, in pertinent part, that a Board may request the
31 administrative law judge to direct a licentiate found to have committed a violation or violations of
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
33 enforcement of the case.

34 **DRUG CLASSIFICATIONS**

35 24. "Remicade" is a brand name for infliximab, and is indicated for the treatment of
36 rheumatoid arthritis. Infliximab is a dangerous drug pursuant to Code section 4022.

1 FACTUAL ALLEGATIONS

2 **Inspection of January 14, 2014**

3 25. On or about January 14, 2014, Board inspectors H. and P. went to Plumas District
4 Hospital ("PDH") to conduct an inspection of the pharmacy. The inspectors knocked on the
5 pharmacy door and were greeted by Respondent Mussell ("Mussell"). The inspectors asked for
6 the pharmacist-in-charge ("PIC"). Mussell stated that the pharmacist would be back in a couple
7 of minutes. Inspector P. asked Mussell where the pharmacist was, and she indicated that he was
8 at another hospital inspecting their drug room. Mussell identified the pharmacist as Raymond
9 Duro (Respondent Duro; "Duro").

10 26. The inspectors observed Mussell checking in a drug order from Cardinal Health, and
11 saw liquid lorazepam, a Schedule III controlled substance, on the counter. The inspectors asked
12 Mussell if she had signed for the order and she said yes.

13 27. Mussell stated she needed to make a call, and shortly thereafter Chief Nursing Officer
14 Dan Schuessler ("Schuessler") arrived at the pharmacy. The inspectors asked him when a
15 pharmacist was last in the pharmacy. Schuessler stated that Douglas Lafferty ("Lafferty") would
16 know, and called him. When Lafferty arrived, he stated he did not think they needed a
17 pharmacist in the pharmacy all of the time because PDH had applied for a drug room license.
18 Mussell said she had called Duro and he would be there soon.

19 28. The inspectors requested and obtained copies of various pharmacy records, including
20 compounding worksheets/logs and a written policy and procedure for controlled substances. The
21 compounding worksheets showed that Mussell had compounded the drug Remicade without
22 pharmacist supervision.

23 29. Inspector P. asked for a copy of the biennial inventory for controlled substances. No
24 biennial inventory was available at the pharmacy. The inspectors then asked for the
25 compounding self-assessments for PIC's Mark LeRoy ("LeRoy") and Respondent Dano
26 ("Dano"). Mussell could not find the documents.

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1 30. Duro arrived at the pharmacy approximately two hours after the inspection began.
2 Duro told the inspectors that he was not a staff pharmacist, but “remotely verified” the
3 prescriptions sent to him by the hospital when there was no pharmacist on duty.

4 31. PDH’s timesheets for Dano from September 20, 2013 to November 27, 2013, and for
5 Mussell from October 1, 2013 to January 3, 2014 showed that Mussell worked in the pharmacy
6 when there was no pharmacist on duty approximately 11 times in October 2013, 7 times in
7 November 2013, and 22 times in December 2013; and from January 2, 2014 to January 14, 2014.
8 Mussell also worked in the pharmacy approximately 11 times in October 2013 and 12 times in
9 November 2013, when Dano was present for only part of the day.

10 32. The inspectors issued an inspection report and provided a copy to Duro. The report
11 stated that “[u]nder no circumstances is the pharmacy to be operated without a licensed
12 pharmacist. No keys in possession of anyone other than by security - for access of the Pharmacist
13 only.” Inspector P. asked Mussell if she understood she could never work in the pharmacy
14 without the supervision of a licensed pharmacist. Mussell stated that she understood.

15 33. Respondent Dano was contacted about the inspection, and stated that she quit
16 working in the pharmacy in late November 2013, but had failed to notify the Board of her
17 disassociation.

18 **Inspection of September 23, 2014**

19 34. On or about September 23, 2014, Inspector P. returned to the pharmacy to conduct an
20 inspection and found Mussell working without pharmacist supervision. Schuessler came to the
21 pharmacy, and said Karen Schad (“Schad”) would be the new PIC and that she had been filling in
22 at the pharmacy working half days.

23 35. Copies of the pharmacy’s perpetual inventory log for hydromorphone 2 mg/ml
24 showed that on September 22, 2014, 50 vials of the drug had been sent to the medical/surgical
25 unit. Mussell stated that the nurses had access to the pharmacy after hours. PDH’s policies and
26 procedures state that entry into the narcotics cabinet is restricted to registered pharmacists and
27 that Schedule III, IV, and V controlled substances were stored in a locked cabinet in the
28 pharmacy.

1 36. Schuessler asked Mussell if she had the keys to the narcotics cabinet. Mussell took
2 keys off of a wall hook and handed them to the inspector. The inspector asked Mussell if the
3 keys on her wrist ring were to the pharmacy. Mussell said yes. The inspector had Mussell give
4 her the keys.

5 37. DEA 222 forms (order form for schedule I and II controlled substances) had been
6 signed by pharmacists Michael Shimoide ("Shimoide"), Viktoria Zaita ("Zaita"), and Duro.
7 Mussell had signed the delivery logs on the line indicated for a pharmacist to sign and had left the
8 pre printed "RPH" on that line intact without indicating that she was not in fact a pharmacist. It is
9 the pharmacist's responsibility to receive the drugs from the delivery driver and to sign the DEA
10 forms and invoices. Mussell claimed that these duties had been delegated to her. However, PDH
11 had no Power of Attorney ("POA") forms.

12 38. The nurses employed at PDH had access to a night locker to obtain needed
13 medications, as well as access to the pharmacy. PDH maintained a Pharmacy Entry Log as well
14 as a night locker list showing the medications stored in the locker. In and between August 2014
15 and September 2014, nursing staff had entered the pharmacy approximately 21 times to obtain
16 medications that were available in the night locker as well as candy and chocolate.

17 39. The nurses employed at PDH had access to the pharmacy because the key to the
18 pharmacy is locked in the medication cart, to which all nurses have access.

19 40. On or about September 25, 2014, Inspector P. requested documents from Cardinal
20 Health for the time period from January 1, 2014 through September 24, 2014, including power of
21 attorney forms for any pharmacists who were granted authority by the hospital's DEA registrant
22 to order Schedule II controlled substances on behalf of the pharmacy, and all signed delivery logs
23 for deliveries made to PDH. Schuessler was the registrant for PDH, and there were no power of
24 attorney forms.

25 41. On or about September 30, 2014, Inspector P. returned to PDH with a consultant from
26 the California Department of Public Health. The consultant conducted an inspection of the
27 pharmacy. The consultant and the inspector interviewed nurse M. M. who stated that she had
28 access to the pharmacy and that the pharmacy keys were stored in the Emergency Department

1 (ED). Floor surveys were obtained that had been conducted between May 28, 2014, and August
2 28, 2014. The surveys had been completed by Mussell who sometimes had a nurse sign off on
3 them. Floor surveys are required to be conducted by a pharmacist.

4 42. On or about August 20, 2015, Duro was interviewed and he stated that he had never
5 worked for or in the pharmacy except for the day of the first inspection on January 14, 2014.

6 43. PDH submitted a change of PIC on August 11, 2014, to remove Zaita and add
7 Shimoide. This change was not approved because the form was signed by unauthorized person.
8 On September 30, 2014, the Board received a change of PIC from PDH to remove Shimoide and
9 add Schad. The change was approved on October 15, 2014. PDH had gaps in PIC coverage from
10 November 28, 2013 to February 10, 2014, and from June 25, 2014 to September 23, 2014.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Gross Negligence)**

13 44. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
14 to Code section 4301, subdivision (c), in that Respondent PDH committed acts or omissions
15 constituting gross negligence, as follows:

16 a. On and between October 1, 2013 and January 14, 2014, Respondent PDH authorized
17 or permitted Respondent Mussell, a pharmacy technician, to work in the pharmacy without the
18 direct supervision and control of a pharmacist; to perform the duties of a pharmacist, including
19 signing for deliveries of controlled substances and dangerous drugs and compounding the drug
20 Remicade; and/or to take charge of or act as supervisor, manager and/or pharmacist-in-charge of
21 the pharmacy. Further, on and between May 28, 2014 and August 28, 2014, Respondent PDH
22 authorized or permitted Respondent Mussell to conduct monthly inspections of the floor stock
23 (supplies of drugs for use in medical emergencies) at the nursing units and service areas without a
24 pharmacist's license. In addition, on or about September 23, 2014, Respondent PDH authorized
25 or permitted Respondent Mussell to work in the pharmacy without pharmacist supervision and/or
26 perform the duties of a pharmacist despite being admonished on January 14, 2014, that the
27 pharmacy was not to be operated without a licensed pharmacist.

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1 b. On and between November 28, 2013 and February 10, 2014, and June 25, 2014 and
2 September 23, 2014, Respondent PDH failed to designate a pharmacist-in-charge of the
3 pharmacy.

4 c. In and between January 2014 and September 2014, Respondent PDH authorized or
5 permitted Respondent Mussell to sign for additional deliveries of dangerous drugs and controlled
6 substances when, in fact, Respondent Mussell was not a licensed pharmacist.

7 d. Respondent PDH failed to maintain the pharmacy and its facilities, space, fixtures
8 and/or equipment so that drugs were safely and properly secured in that Respondent Mussell and
9 the nursing staff were allowed access to the pharmacy without a pharmacist present and had
10 access to the keys to the pharmacy. Further, on or about September 23, 2014, Respondent
11 Mussell had access to the keys to the pharmacy and the locked narcotics cabinet.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Notify Board of Disassociation of PIC)**

14 45. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
15 to Code section 4301, subdivision (o), in that Respondent PDH violated Code section 4113,
16 subdivision (d), as follows:

17 a. Respondent PDH failed to notify the Board within 30 days of the disassociation of
18 pharmacist-in-charge Viktoria Zaita in that Zaita left her employment at PDH on approximately
19 June 24, 2014, yet the Board was not notified of the disassociation until August 11, 2014.

20 b. Respondent PDH failed to notify the Board within 30 days of the disassociation of
21 pharmacist-in-charge Dano in that Dano left her employment at PDH on November 27, 2013, yet
22 the Board was not notified of the disassociation until January 16, 2014.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Receipt of Dangerous Drugs by Unauthorized Person)**

25 46. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
26 to Code section 4301, subdivisions (j) and (o), in that Respondent PDH violated Code section
27 4059.5, subdivision (a), as follows: Respondent PDH authorized or permitted Respondent

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1 Mussell to receive and/or sign for dangerous drugs and controlled substances as set forth above
2 when, in fact, Respondent Mussell was not a licensed pharmacist.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Signature of DEA 222 Forms by Unauthorized Persons)**

5 47. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
6 to Code section 4301, subdivisions (j) and (o), in that Respondent PDH violated Title 21, CFR,
7 sections 1305.05, subdivision (a), and 1305.12, subdivision (d), as follows: Respondent PDH
8 authorized or permitted pharmacists Shimoide, Zaita, and Duro to sign DEA 222 forms upon
9 delivery or receipt of Schedule II controlled substances when, in fact, none of the pharmacists had
10 been granted power of attorney to sign the DEA forms.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Failure to Complete Biennial Inventory)**

13 48. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
14 to Code section 4301, subdivision (o), in that Respondent PDH violated Title 21, CFR, section
15 1304.11, subdivision (c), as follows: On or before January 14, 2014, Respondent PDH failed to
16 complete or have available at the pharmacy a biennial inventory of all stocks of controlled
17 substances on hand at the pharmacy.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Failure to Provide Supervision of Pharmacy Technician)**

20 49. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
21 to Code section 4301, subdivision (o), in that on and between October 1, 2013 and January 14,
22 2014, and on or about September 23, 2014, Respondent PDH violated Code section 4115, as
23 follows: Respondent PDH authorized or permitted Respondent Mussell, a pharmacy technician,
24 to work in the pharmacy without the direct supervision and control of a pharmacist and to
25 perform the duties of a pharmacist, as set forth in paragraph 44 above.

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SEVENTH CAUSE FOR DISCIPLINE

(Failure to Supervise Sterile Compounding Conducted by Pharmacy Technician)

50. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent PDH violated Title 16, CCR, sections 1735.2, subdivision (i), and 1735.3, subdivision (a)(4), as follows: Respondent PDH authorized or permitted Respondent Mussell, a pharmacy technician, to compound Remicade for consumer J. G. on January 6, 2014, for consumer S. J. on September 16, 2013, October 30, 2013, and December 20, 2013, and for consumer L. S. on October 18, 2013, and December 27, 2013, without pharmacist supervision.

EIGHTH CAUSE FOR DISCIPLINE

**(Failure to Maintain Pharmacy, Fixtures, and Equipment
So that Drugs Were Safely and Properly Secured)**

51. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent PDH violated Title 16, CCR, section 1714, subdivision (b), by failing to maintain the pharmacy and its facilities, space, fixtures and/or equipment so that drugs were safely and properly secured, as set forth in paragraph 44(d) above.

NINTH CAUSE FOR DISCIPLINE

(Failure to Perform Monthly Inspections of Floor Stock)

52. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that on and between May 28, 2014 and August 28, 2014, in that Respondent PDH violated Title 22, CCR, section 70263, subdivision (f)(3), as follows: Respondent PDH authorized or permitted Respondent Mussell, a pharmacy technician, to conduct monthly inspections of the floor stock at the nursing units and service areas when, in fact, Respondent Mussell was not a licensed pharmacist. Further, on and between June 28, 2013 and March 7, 2014, Respondent PDH failed to ensure that at least one pharmacist took part in or was made a part of the hospital's pharmacy and therapeutics committee.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Unlawful Access to Hospital Pharmacy after Hours)**

3 53. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
4 to Code section 4301, subdivision (o), in that in and between August 2014 and September 2014,
5 Respondent PDH violated Title 22, CCR, section 70263, subdivision (n), by allowing the nursing
6 staff to access the pharmacy when it was closed.

7 **ELEVENTH CAUSE FOR DISCIPLINE**

8 **(Failure to Complete Compounding Self-Assessment)**

9 54. Respondent PDH is subject to disciplinary action for unprofessional conduct pursuant
10 to Code section 4301, subdivision (o), in that Respondent PDH violated Title 16, CCR, section
11 1735.2, subdivision (j), as follows: Respondent PDH failed to ensure that pharmacists-in-charge
12 Mark LeRoy and Respondent Dano had completed compounding self-assessments, as set forth in
13 paragraph 29 above.

14 **TWELFTH CAUSE FOR DISCIPLINE**

15 **(Failure to Notify Board of Disassociation as PIC)**

16 55. Respondent Dano is subject to disciplinary action for unprofessional conduct pursuant
17 to Code section 4301, subdivision (o), in that Respondent Dano violated Code section 4113,
18 subdivision (d), by failing to notify the Board within 30 days of disassociating as the pharmacist-
19 in-charge for PDH, as set forth in paragraph 45(b) above.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

21 **(Receipt of Dangerous Drugs by Unauthorized Person)**

22 56. Respondent Dano is subject to disciplinary action for unprofessional conduct pursuant
23 to Code section 4301, subdivisions (j) and (o), in that Respondent Dano violated Code section
24 4059.5, subdivision (a), as follows: On or about December 31, 2013, Respondent Dano, as
25 pharmacist-in-charge of record for PDH, authorized or permitted Respondent Mussell to receive
26 and/or sign for dangerous drugs and/or controlled substances when, in fact, Respondent Mussell
27 was not a licensed pharmacist.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Supervision of Pharmacy Technician)**

3 57. Respondent Dano is subject to disciplinary action for unprofessional conduct pursuant
4 to Code section 4301, subdivision (o), in that Respondent Dano violated Code section 4115, as
5 follows: On and between October 25, 2013 and January 14, 2014, Respondent Dano, as
6 pharmacist-in-charge of record for PDH, authorized or permitted Respondent Mussell, a
7 pharmacy technician, to work in the pharmacy without Respondent Dano's direct supervision and
8 control and to perform the duties of a pharmacist, including, but not limited to, signing for
9 deliveries of controlled substances and dangerous drugs from suppliers and compounding the
10 drug Remicade as set forth in paragraph 50, above.

11 **FIFTEENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Supervise Sterile Compounding Conducted by Pharmacy Technician)**

13 58. Respondent Dano is subject to disciplinary action for unprofessional conduct pursuant
14 to Code section 4301, subdivision (o), in that Respondent Dano violated Title 16, CCR, sections
15 1735.2, subdivision (i), and 1735.3, subdivision (a)(4), as follows: Respondent Dano, as
16 pharmacist-in-charge of record for PDH, failed to supervise sterile compounding conducted by
17 Respondent Mussell, a pharmacy technician, as set forth in paragraph 50 above.

18 **SIXTEENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Pharmacy, Fixtures, and Equipment**
20 **So that Drugs Were Safely and Properly Secured)**

21 59. Respondent Dano is subject to disciplinary action for unprofessional conduct pursuant
22 to Code section 4301, subdivision (o), in that Respondent Dano violated Title 16, CCR, section
23 1714, subdivision (b), as follows: On and between October 25, 2013 and January 14, 2014,
24 Respondent Dano, as pharmacist-in-charge of record for PDH, failed to maintain the pharmacy
25 and its facilities, space, fixtures and/or equipment so that drugs were safely and properly secured
26 in that Respondent Dano knew, or should have known, that Respondent Mussell had access to the
27 keys to the pharmacy and the locked narcotics cabinet.

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SEVENTEENTH CAUSE FOR DISCIPLINE

(Failure to Complete Compounding Self-Assessment)

60. Respondent Dano is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent Dano violated Title 16, CCR, section 1735.2, subdivision (j), as follows: Respondent Dano failed to complete a compounding self-assessment within 30 days of becoming the pharmacist-in-charge for Respondent PDH as set forth in paragraph 29, above.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to Complete Biennial Inventory)

61. Respondent Dano is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent Dano violated Title 21, CFR, section 1304.11, subdivision (c), as follows: On or before January 14, 2014, Respondent Dano failed to complete or have available at the pharmacy a biennial inventory of all stocks of controlled substances on hand at the pharmacy.

NINETEENTH CAUSE FOR DISCIPLINE

(Working as a Pharmacy Technician without Pharmacist Supervision)

62. Respondent Mussell is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent Mussell violated Code section 4115 by working as a pharmacy technician at Plumas District Hospital Pharmacy without the direct supervision and control of a pharmacist, as set forth in paragraph 44(a) above.

TWENTIETH CAUSE FOR DISCIPLINE

(Engaging in Practice as a Pharmacist without a License)

63. Respondent Mussell is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent Mussell violated Code section 4329 by taking charge of or acting as supervisor, manager, or pharmacist-in-charge of PDH Pharmacy and compounding or dispensing prescriptions or furnishing dangerous drugs without a pharmacist's license, as follows:

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1 a. Respondent Mussell signed for deliveries of controlled substances and dangerous
2 drugs from suppliers, compounded the drug Remicade without pharmacist supervision, and
3 conducted monthly inspections of the floor stock at the nursing units and service areas, as set
4 forth in paragraph 44(a) above. Further, on or about September 23, 2014, Respondent Mussell
5 worked in the pharmacy without pharmacist supervision and/or performed the duties of a
6 pharmacist despite having been directly admonished prior to that date that Respondent Mussell
7 could never work in the pharmacy without the supervision of a licensed pharmacist

8 b. Respondent Mussell had access to the keys to the pharmacy and the locked narcotics
9 cabinet, as set forth in paragraph 44(d) above.

10 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

11 **(Fraudulent Representation)**

12 64. Respondent Mussell is subject to disciplinary action for unprofessional conduct
13 pursuant to Code section 4301, subdivision (o), in that Respondent Mussell violated Code section
14 4322 by fraudulently representing herself to be a licensed pharmacist, as follows: On and
15 between December 31, 2013 and September 23, 2014, Respondent Mussell signed delivery logs
16 as the "Rph" (pharmacist) upon receipt of dangerous drugs and controlled substances when, in
17 fact, Respondent Mussell was not a licensed pharmacist.

18 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

19 **(Knowingly Signing Documents Containing False Representations)**

20 65. Respondent Mussell is subject to disciplinary action for unprofessional conduct
21 pursuant to Code section 4301, subdivision (g), in that Respondent Mussell knowingly made or
22 signed documents that falsely represented the existence or nonexistence of a state of facts, as set
23 forth in paragraph 64 above.

24 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

25 **(Subverting or Attempting to Subvert an Investigation of the Board)**

26 66. Respondent Duro is subject to disciplinary action for unprofessional conduct pursuant
27 to Code section 4301, subdivision (q), in that Respondent Duro engaged in conduct that subverted
28 or attempted to subvert an investigation of the Board, a follows: On or about August 20, 2015,

1 Respondent Duro stated that he had never worked for or in the pharmacy except for the day of the
2 inspection on January 14, 2014. In fact, Respondent Duro worked in the capacity as pharmacist
3 for PDH when he signed DEA 222 forms on December 31, 2013 and January 28, 2014, to order
4 Schedule II controlled substances on behalf of the pharmacy. Further, Respondent Duro signed a
5 Cardinal Health delivery log on January 2, 2014, showing that he received a delivery of the
6 controlled substances fentanyl, hydromorphone, and morphine.

7 **TWENTH-FOURTH CAUSE FOR DISCIPLINE**

8 **(Aiding or Abetting Violations of the Pharmacy Law**
9 **and State Laws Governing Pharmacy)**

10 67. Respondent Duro is subject to disciplinary action for unprofessional conduct pursuant
11 to Code section 4301, subdivision (o), in that Respondent Duro assisted in or abetted Respondent
12 Mussell, a pharmacy technician, in violating Code section 4115, as follows: On or about
13 December 31, 2013 and January 2, 2014, Respondent Duro was present in the pharmacy, as set
14 forth in paragraph 66 above. Respondent Duro knew, or should have known, that on those dates
15 during times that he was not in the pharmacy, Respondent Mussell was working in the pharmacy
16 alone without the direct supervision and control of a pharmacist.

17 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

18 **(Signature of DEA 222 Forms by Unauthorized Persons)**

19 68. Respondent Duro is subject to disciplinary action for unprofessional conduct pursuant
20 to Code section 4301, subdivisions (j) and (o), in that Respondent Duro violated Title 21, CFR,
21 sections 1305.05, subdivision (a), and 1305.12, subdivision (d), as follows: Respondent Duro
22 signed DEA 222 forms upon delivery or receipt of Schedule II controlled substances when, in
23 fact, he had not been granted power of attorney to sign the DEA forms, as set forth in paragraph
24 47 above.

25 **PRAYER**

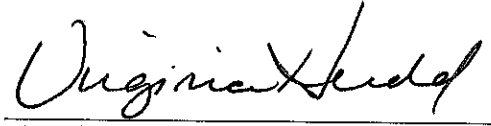
26 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Pharmacy issue a decision:

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1. Revoking or suspending Hospital Pharmacy Permit Number HPE 32553 and Drug Room Permit Number DRE 32553, issued to Plumas District Hospital, doing business as Plumas District Hospital Pharmacy;
2. Revoking or suspending Pharmacist License Number RPH 35371, issued to Darlene Dano;
3. Revoking or suspending Pharmacy Technician Registration Number TCH 135012, issued to Cheryl Ann Mussell;
4. Revoking or suspending Pharmacist License Number RPH 61786, issued to Raymond Miranda Duro;
5. Ordering Plumas District Hospital, doing business as Plumas District Hospital Pharmacy, Darlene Dano, Cheryl Ann Mussell, and Raymond Miranda Duro to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
6. Taking such other and further action as deemed necessary and proper.

DATED: 11/4/16



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

SA2016100121