

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

In the Matter of the Accusation Against:

**LEON JASON KECK
648 Matthew Way
Arroyo Grande, CA 93420**

Pharmacist License No. RPH 43833

Respondent.

Case No. 5716

OAH No. 2017040227

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on November 15, 2017.

It is so ORDERED on October 16, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the First Amended Accusation
Against:
LEON JASON KECK
648 Matthew Way
Arroyo Grande, CA 93420
Pharmacist License No. RPH 43833

Respondent.

Case No. 5716
OAH No. 2017040227

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Desiree Tulleners, Deputy Attorney General.
2. Respondent Leon Jason Keck (Respondent) is represented in this proceeding by attorney Kevin Cauley, Esq., whose address is: Kevin Cauley P.C., 624 S. Grand Avenue, 22nd Floor, Los Angeles, CA 90017.

1 3. On or about August 22, 1990, the Board issued Pharmacist License No. RPH 43833
2 to Leon Jason Keck (Respondent). The Pharmacist License was in full force and effect at all
3 times relevant to the charges brought in First Amended Accusation No. 5716, and will expire on
4 September 30, 2018; unless renewed.

5 JURISDICTION

6 4. Accusation No. 5716 and all other statutorily required documents were properly
7 served on Respondent on November 7, 2016. Respondent timely filed his Notice of Defense
8 contesting the Accusation. A First Amended Accusation was filed on or about August 8, 2017
9 and is currently pending against Respondent.

10 5. A copy of the First Amended Accusation No. 5716 is attached as Exhibit A and
11 incorporated herein 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. 5716. 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 CULPABILITY

27 9. Respondent admits the truth of each and every charge and allegation in First
28 Amended Accusation No. 5716.

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1. Suspension

As part of probation, respondent is suspended from the practice of pharmacy for one hundred and eighty (180) beginning the effective date of this decision. Respondent shall be given one hundred and eighty (180) days credit for the suspension already served.

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

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

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

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

2. Tolling of Suspension

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of the (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

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

6 **3. Obey All Laws**

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

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

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

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

21 **4. Report to the Board**

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

3 **5. Interview with the Board**

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

9 **6. Cooperate with Board Staff**

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

13 **7. Continuing Education**

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

16 **8. Notice to Employers**

17 During the period of probation, respondent shall notify all present and prospective
18 employers of the decision in case number 5716 and the terms, conditions and restrictions imposed
19 on respondent by the decision, as follows:

20 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
21 respondent undertaking any new employment, respondent shall cause his direct supervisor,
22 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
23 tenure of employment) and owner to report to the board in writing acknowledging that the listed
24 individual(s) has/have read the decision in case number 5716, and terms and conditions imposed
25 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
26 submit timely acknowledgment(s) to the board.

27 If respondent works for or is employed by or through a pharmacy employment service,
28 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity

1 licensed by the board of the terms and conditions of the decision in case number 5716 in advance
2 of the respondent commencing work at each licensed entity. A record of this notification must be
3 provided to the board upon request.

4 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
5 (15) days of respondent undertaking any new employment by or through a pharmacy employment
6 service, respondent shall cause his direct supervisor with the pharmacy employment service to
7 report to the board in writing acknowledging that he has read the decision in case number 5716
8 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
9 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

17 **9. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
18 **Designated Representative-in-Charge, or Serving as a Consultant**

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

23 **10. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, respondent shall pay to the
25 board its costs of investigation and prosecution in the amount of \$5,185. Respondent shall make
26 said payments according to a payment plan to be approved by the Board. The entire sum of
27 \$5,185 shall be paid within the first 54 months of probation.

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

11 **12. 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 **13. 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 have
23 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 to
28 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 **14. 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 **15. Pharmacists Recovery Program (PRP)**

15 Within thirty (30) days of the effective date of this decision, respondent shall contact the
16 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
17 successfully participate in, and complete the treatment contract and any subsequent addendums as
18 recommended and provided by the PRP and as approved by the board or its designee. The costs
19 for PRP participation shall be borne by the respondent.

20 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
21 the effective date of this decision is no longer considered a self-referral under Business and
22 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
23 his current contract and any subsequent addendums with the PRP.

24 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
25 the treatment contract and/or any addendums, shall be considered a violation of probation.

26 Probation shall be automatically extended until respondent successfully completes the PRP.

27 Any person terminated from the PRP program shall be automatically suspended by the board.

28 Respondent may not resume the practice of pharmacy until notified by the board in writing.

1 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
2 licensed practitioner as part of a documented medical treatment shall result in the automatic
3 suspension of practice by respondent and shall be considered a violation of probation.

4 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

13 During suspension, respondent shall not engage in any activity that requires the
14 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
15 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
16 designated representative for any entity licensed by the board.

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

18 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
19 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
20 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

21 Respondent shall work in a pharmacy setting with access to controlled substances for six
22 (6) consecutive months before successfully completing probation. If respondent fails to do so,
23 probation shall be automatically extended until this condition has been met. Failure to satisfy this
24 condition within six (6) months beyond the original date of expiration of the term of probation
25 shall be considered a violation of probation.

26 **16. Random Drug Screening**

27 Respondent, at his own expense, shall participate in random testing, including but not
28 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug

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

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

23 During suspension, respondent shall not engage in any activity that requires the
24 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
25 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
26 designated representative for any entity licensed by the board.

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

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1 **17. Abstain from Drugs and Alcohol Use**

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

13 **18. Prescription Coordination and Monitoring of Prescription Use**

14 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
16 physician assistant, or psychiatrist of respondent's choice; who shall be aware of the respondent's
17 history controlled substances, and/or dangerous drugs, and who will coordinate and monitor any
18 prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs.
19 The approved practitioner shall be provided with a copy of the board's First Amended Accusation
20 and decision. A record of this notification must be provided to the board upon request.
21 Respondent shall sign a release authorizing the practitioner to communicate with the board about
22 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or
23 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding
24 respondent's compliance with this condition. If any substances considered addictive have been
25 prescribed, the report shall identify a program for the time limited use of any such substances.
26 The board may require that the single coordinating physician, nurse practitioner, physician
27 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
28 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,

1 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,
2 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
3 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit
4 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
5 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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

19 During suspension, respondent shall not engage in any activity that requires the
20 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
21 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
22 designated representative for any entity licensed by the board.

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

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

27 **19. Remedial Education**

28 Within thirty (30) days of the effective date of this decision, respondent shall submit to the

1 board or its designee, for prior approval, an appropriate program of remedial education related to
2 substance abuse. The program of remedial education shall consist of at least ten (10) hours,
3 which shall be completed within the first year of probation at respondent's own expense. All
4 remedial education shall be in addition to, and shall not be credited toward, continuing education
5 (CE) courses used for license renewal purposes.

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

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

15 20. Supervised Practice

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

21 Continuous -- At least 75% of a work week

22 Substantial - At least 50% of a work week

23 Partial - At least 25% of a work week

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

25 Within thirty (30) days of the effective date of this decision, respondent shall have his
26 supervisor submit notification to the board in writing stating that the supervisor has read the
27 decision in case number 5716 and is familiar with the required level of supervision as determined
28 by the board or its designee. It shall be the respondent's responsibility to ensure that his

1 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
2 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
3 acknowledgements to the board shall be considered a violation of probation.

4 If respondent changes employment, it shall be the respondent's responsibility to ensure that
5 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
6 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
7 commences, submit notification to the board in writing stating the direct supervisor and
8 pharmacist-in-charge have read the decision in case number 5716 and is familiar with the level of
9 supervision as determined by the board. Respondent shall not practice pharmacy and his license
10 shall be automatically suspended until the board or its designee approves a new supervisor.
11 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
12 acknowledgements to the board shall be considered a violation of probation.

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

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

22 During suspension, respondent shall not engage in any activity that requires the
23 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
24 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
25 designated representative for any entity licensed by the board.

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

27 **21. No Ownership of Licensed Premises**

28 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,

1 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
2 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
3 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
4 days following the effective date of this decision and shall immediately thereafter provide written
5 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
6 documentation thereof shall be considered a violation of probation.

7 **22. Ethics Course**

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

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

14 **23. 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
3 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
4 month during which respondent is practicing as a pharmacist for at least forty (40) hours as
5 a pharmacist as defined by Business and Professions Code section 4000 et seq.

6 **24. 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.

19 **25. Completion of Probation**

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

22 ACCEPTANCE

23 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
24 discussed it with my attorney, Kevin Cauley. I understand the stipulation and the effect it will
25 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order

26 ///
27 ///
28 ///

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

3
4 DATED: August 8, 2017 
5 LEON JASON KECK
Respondent

6 I have read and fully discussed with Respondent Leon Jason Keck the terms and conditions
7 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
8 its form and content.

9 DATED: August 8, 2017 
10 KEVIN CAULEY
Attorney for Respondent

11 ENDORSEMENT

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

14 DATED: _____

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General

DESIREE TULLENERS
Deputy Attorney General
Attorneys for Complainant

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

3
4 DATED: _____

5 LEON JASON KECK
6 Respondent

7 I have read and fully discussed with Respondent Leon Jason Keck the terms and conditions
8 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
9 its form and content.

10 DATED: _____

11 KEVIN CAULEY
12 Attorney for Respondent

13 ENDORSEMENT

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

16 DATED: August 8, 2017

17 Respectfully submitted,

18 XAVIER BECERRA
19 Attorney General of California
20 THOMAS L. RINALDI
21 Supervising Deputy Attorney General

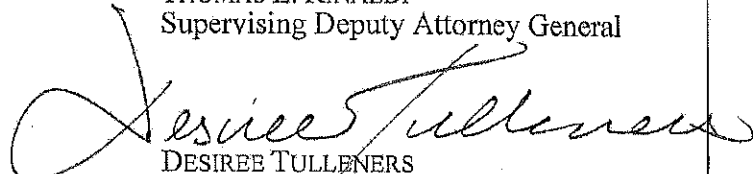
22 
23 DESIREE TULENERS
24 Deputy Attorney General
25 Attorneys for Complainant

Exhibit A

First Amended Accusation No. 5716

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
4 State Bar No. 157464
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

12 In the Matter of the First Amended Accusation
Against:
13 **LEON JASON KECK**
14 648 Matthew Way
Arroyo Grande, CA 93420
15 **Pharmacist License No. RPH 43833**
16
17 Respondent.

Case No. 5716
OAH No. 2017040227
FIRST AMENDED ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
22 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
23 Affairs.
24 2. On or about August 22, 1990, the Board of Pharmacy issued Pharmacist License
25 Number RPH 43833 to Leon Jason Keck (Respondent). The Pharmacist License was in full force
26 and effect at all times relevant to the charges brought herein, and will expire on September 30,
27 2018, unless renewed.
28 ///

JURISDICTION

1
2 3. This First Amended Accusation is brought before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code), unless otherwise indicated.

5 4. Section 4300 of the Code provides in pertinent part, that every license issued by the
6 Board is subject to discipline, including suspension or revocation.

7 5. Section 4300.1 of the Code states:

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

13 6. Section 4301 of the Code states in pertinent part:

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

17

18 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
19 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
20 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
21 to the extent that the use impairs the ability of the person to conduct with safety to the public the
22 practice authorized by the license.

23

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

26 7. Section 4327 of the Code states:

27 "Any person who, while on duty, sells, dispenses or compounds any drug while under the
28 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

1 8. California Code of Regulations, title 16, section 1714, subdivision (d) states:

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

6 9. California Code of Regulations, title 16, section 4113, subdivision (c) states:

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

9 COST RECOVERY

10 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
11 administrative law judge to direct a licensee found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 FIRST CAUSE FOR DISCIPLINE

15 *(Sale, Dispensing or Compounding While Under the Influence of Alcohol)*

16 11. Respondent is subject to disciplinary action under section 4301, for violation of
17 section 4327, in that, Respondent was under the influence of alcoholic beverages while on duty
18 working as a pharmacist compounding and dispensing medications. The circumstances are as
19 follows:

20 12. On or about, November 26, 2014, Respondent was found to be intoxicated while on
21 duty as pharmacist-in-charge at Sav-On Pharmacy #6304, located at 1132 W. Branch Street,
22 Arroyo Grande, California. Two patrons of Sav-On Pharmacy complained to the store manager
23 that Respondent was acting irregularly and was possibly inebriated. Respondent was observed by
24 management to be moving slowly and appeared to be falling asleep on his feet. He was also
25 observed struggling with a transaction at the register and taking a significant amount of time to
26 process the transaction. When confronted by management to inquire what was wrong,
27 Respondent was slurring his words and staggering, had trouble putting sentences together and his
28 eyes were bloodshot. Respondent admitted to drinking 3/4 bottle of vodka on his lunch break and

1 that he had an addiction to alcohol. Respondent refused to take a breathalyzer test. Respondent
2 was immediately suspended and then terminated following an investigation.

3 SECOND CAUSE FOR DISCIPLINE

4 *(Unprofessional Conduct-Impairment Due to Self Use of Alcoholic Beverages)*

5 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
6 the grounds of unprofessional conduct, in that, Respondent was found to be impaired due to the
7 consumption of alcohol while working as a pharmacist as set forth above in paragraphs 11 and 12.

8 PRAYER

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

- 11 1. Revoking or suspending Pharmacist License Number RPH 43833, issued to Leon
12 Jason Keck;
- 13 2. Ordering Leon Jason Keck to pay the Board of Pharmacy the reasonable costs of the
14 investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 8/8/17

Virginia Herold

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