

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

In the Matter of the Accusation Against:

**SUN HEUY CHUNG
22573 Belaire Drive
Moreno Valley, CA 92553**

Pharmacist License No. RPH 53777

Respondent.

Case No. 5761

OAH No. 2016041075

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 October 28, 2016.

It is so ORDERED on September 28, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 5761

12 **SUN HEUY CHUNG**
13 **22573 Belaire Drive**
14 **Moreno Valley, CA 92553**

OAH No. 2016041075

15 **Pharmacist License No. RPH 53777**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

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

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by David E. Hausfeld, Deputy Attorney
24 General.

25 2. Sun Heuy Chung (Respondent) is represented in this proceeding by attorney
26 Frederick M. Ray, whose address is: 5000 Birch Street, Suite 7000, Newport Beach, CA 92660.

27 3. On or about August 29, 2002, the Board of Pharmacy issued Pharmacist License No.
28 RPH 53777 to Sun Heuy Chung (Respondent). The Pharmacist License was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 5761, and will expire on June
2 30, 2018, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 5761 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on April 19, 2016.
7 Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 5761 is attached as Exhibit A and incorporated herein by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 5761. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

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

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

23 **CULPABILITY**

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 5761.

26 10. Respondent agrees that her Pharmacist License is subject to discipline and she agrees
27 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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1 CONTINGENCY

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

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

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

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

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 53777 issued to Respondent
25 Sun Heuy Chung is revoked. However, the revocation is stayed and Respondent is placed on
26 probation for five (5) years on the following terms and conditions.

27 1. **Obey All Laws**

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

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

- 3 • an arrest or issuance of a criminal complaint for violation of any provision of the
4 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
5 substances laws
- 6 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
7 criminal complaint, information or indictment
- 8 • a conviction of any crime
- 9 • discipline, citation, or other administrative action filed by any state or federal agency
10 which involves Respondent's Pharmacist license or which is related to the practice of
11 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
12 for any drug, device or controlled substance.

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

14 **2. Report to the Board**

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

23 **3. Interview with the Board**

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

1 **4. Cooperate with Board Staff**

2 Respondent shall cooperate with the Board's inspection program and with the Board's
3 monitoring and investigation of respondent's compliance with the terms and conditions of her
4 probation. Failure to cooperate shall be considered a violation of probation.

5 **5. Continuing Education**

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

8 **6. Notice to Employers**

9 During the period of probation, Respondent shall notify all present and prospective
10 employers of the decision in case number 5761 and the terms, conditions and restrictions imposed
11 on Respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
14 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
15 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
16 individual(s) has/have read the decision in case number 5761, and terms and conditions imposed
17 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
18 supervisor(s) submit timely acknowledgment(s) to the Board.

19 If Respondent works for or is employed by or through a pharmacy employment service,
20 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
21 licensed by the Board of the terms and conditions of the decision in case number 5761 in advance
22 of the Respondent commencing work at each licensed entity. A record of this notification must
23 be provided to the Board upon request.

24 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
25 (15) days of Respondent undertaking any new employment by or through a pharmacy
26 employment service, Respondent shall cause her direct supervisor with the pharmacy
27 employment service to report to the Board in writing acknowledging that the supervisor has read
28 the decision in case number 5761 and the terms and conditions imposed thereby. It shall be

1 Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
2 acknowledgment(s) to the Board.

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

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

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

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

16 **8. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, Respondent shall pay to the
18 Board its costs of investigation and prosecution in the amount of \$3,155.00. Respondent shall
19 make payments of these costs on a schedule approved in writing by the Board or its designee.

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

23 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
24 to reimburse the Board its costs of investigation and prosecution.

25 **9. Probation Monitoring Costs**

26 Respondent shall pay any costs associated with probation monitoring as determined by the
27 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
28

1 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
2 shall be considered a violation of probation.

3 **10. Status of License**

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

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

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

12 Following the effective date of this decision, should Respondent cease practice due to
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
14 Respondent may tender her license to the Board for surrender. The Board or its designee shall
15 have the discretion whether to grant the request for surrender or take any other action it deems
16 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
17 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
18 record of discipline and shall become a part of the Respondent's license history with the Board.

19 Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license
20 to the Board within ten (10) days of notification by the board that the surrender is accepted.
21 Respondent may not reapply for any license from the Board for three (3) years from the effective
22 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
23 of the date the application for that license is submitted to the Board, including any outstanding
24 costs.

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

27 Respondent shall notify the Board in writing within ten (10) days of any change of
28 employment. Said notification shall include the reasons for leaving, the address of the new

1 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
2 shall further notify the Board in writing within ten (10) days of a change in name, residence
3 address, mailing address, or phone number.

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

6 **13. Tolling of Probation**

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

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

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

21 "Cessation of practice" means any calendar month during which Respondent is
22 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
23 Professions Code section 4000 et seq . "Resumption of practice" means any calendar
24 month during which Respondent is practicing as a pharmacist for at least forty (40)
25 hours as a pharmacist as defined by Business and Professions Code section 4000 et
26 seq.

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1 **14. Violation of Probation**

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

7 If Respondent violates probation in any respect, the Board, after giving Respondent notice
8 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
9 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
10 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
11 a petition to revoke probation or an accusation is filed against Respondent during probation, the
12 Board shall have continuing jurisdiction and the period of probation shall be automatically
13 extended until the petition to revoke probation or accusation is heard and decided.

14 **15. Completion of Probation**

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

17 **16. Mental Health Examination**

18 Within thirty (30) days of the effective date of this decision, and on a periodic basis as may
19 be required by the Board or its designee, Respondent shall undergo, at her own expense,
20 psychiatric evaluation(s) by a Board-appointed or Board-approved licensed mental health
21 practitioner. The approved evaluator shall be provided with a copy of the Board's Accusation
22 and decision. Respondent shall sign a release authorizing the evaluator to furnish the Board with
23 a current diagnosis and a written report regarding Respondent's judgment and ability to function
24 independently as a pharmacist with safety to the public. Respondent shall comply with all the
25 recommendations of the evaluator if directed by the Board or its designee.

26 If the evaluator recommends, and the Board or its designee directs, Respondent shall
27 undergo psychotherapy. Within thirty (30) days of notification by the Board that a
28 recommendation for psychotherapy has been accepted, Respondent shall submit to the Board or

1 its designee, for prior approval, the name and qualification of a licensed mental health practitioner
2 of Respondent's choice. Within thirty (30) days of approval thereof by the Board, Respondent
3 shall submit documentation to the Board demonstrating the commencement of psychotherapy
4 with the approved licensed mental health practitioner. Should Respondent, for any reason, cease
5 treatment with the approved licensed mental health practitioner, Respondent shall notify the
6 Board immediately and, within thirty (30) days of ceasing treatment therewith, submit the name
7 of a replacement licensed mental health practitioner of Respondent's choice to the Board for its
8 prior approval. Within thirty (30) days of approval thereof, Respondent shall submit
9 documentation to the Board demonstrating the commencement of psychotherapy with the
10 approved replacement. Failure to comply with any requirement or deadline stated by this
11 paragraph shall be considered a violation of probation.

12 Upon approval of the initial or any subsequent licensed mental health practitioner,
13 Respondent shall undergo and continue treatment with that therapist, at Respondent's own
14 expense, until the therapist recommends in writing to the Board, and the Board or its designee
15 agrees by way of a written notification to Respondent, that no further psychotherapy is necessary.
16 Upon receipt of such recommendation from the treating therapist, and before determining whether
17 to accept or reject said recommendation, the Board or its designee may require Respondent to
18 undergo, at Respondent's expense, a mental health evaluation by a separate Board-appointed or
19 Board-approved evaluator. If the approved evaluator recommends that Respondent continue
20 psychotherapy, the Board or its designee may require Respondent to continue psychotherapy.

21 Psychotherapy shall be at least once a week unless otherwise approved by the Board.
22 Respondent shall provide the therapist with a copy of the Board's Accusation and decision no
23 later than the first therapy session. Respondent shall take all necessary steps to ensure that the
24 treating therapist submits written quarterly reports to the Board concerning Respondent's fitness
25 to practice, progress in treatment, and other such information as may be required by the Board or
26 its designee.

27 If at any time the approved evaluator or therapist determines that Respondent is unable to
28 practice safely or independently as a pharmacist, the licensed mental health practitioner shall

1 notify the Board immediately by telephone and follow up by written letter within three (3)
2 working days. Upon notification from the Board or its designee of this determination,
3 Respondent shall be automatically suspended and shall not resume practice until notified by the
4 Board that practice may be resumed.

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 **17. Community Services Program**

18 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
19 Board or its designee, for prior approval, a community service program in which Respondent
20 shall provide free health-care related services on a regular basis to a community or charitable
21 facility or agency for a total of one hundred (100) hours for the first three (3) years of probation.
22 Within thirty (30) days of Board approval thereof, Respondent shall submit documentation to the
23 board demonstrating commencement of the community service program. A record of this
24 notification must be provided to the Board upon request. Respondent shall report on progress
25 with the community service program in the quarterly reports. Failure to timely submit,
26 commence, or comply with the program shall be considered a violation of probation.

27 **18. Supervised Practice**

28 During the period of probation, Respondent shall practice only under the supervision of a

1 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
2 decision, Respondent shall not practice pharmacy and her license shall be automatically
3 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
4 as required by the Board or its designee, either:

5 Continuous – At least 75% of a work week

6 Substantial - At least 50% of a work week

7 Partial - At least 25% of a work week

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

9 Within thirty (30) days of the effective date of this decision, Respondent shall have her
10 supervisor submit notification to the Board in writing stating that the supervisor has read the
11 decision in case number 5761 and is familiar with the required level of supervision as determined
12 by the Board or its designee. It shall be the Respondent's responsibility to ensure that her
13 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
14 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
15 acknowledgements to the Board shall be considered a violation of probation.

16 If Respondent changes employment, it shall be Respondent's responsibility to ensure that
17 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
18 the Board. Respondent shall have her new supervisor, within fifteen (15) days after employment
19 commences, submit notification to the Board in writing stating the direct supervisor and
20 pharmacist-in-charge have read the decision in case number 5761 and is familiar with the level of
21 supervision as determined by the board. Respondent shall not practice pharmacy and her license
22 shall be automatically suspended until the Board or its designee approves a new supervisor.
23 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
24 acknowledgements to the Board shall be considered a violation of probation.

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

26 During suspension, Respondent shall not enter any pharmacy area or any portion of the
27 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
28 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices

1 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
2 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
3 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
4 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
5 and controlled substances. Respondent shall not resume practice until notified by the Board.

6 During suspension, Respondent shall not engage in any activity that requires the
7 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
8 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
9 designated representative for any entity licensed by the Board.

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

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

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

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

22 **20. Ethics Course**

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

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

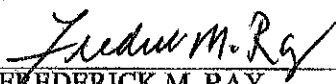
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ACCEPTANCE

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

DATED: 8/18/2016 
SUN HEUY CHUNG
Respondent

I have read and fully discussed with Respondent Sun Heuy Chung the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/18/16 
FREDERICK M. RAY,
Attorney for Respondent

ENDORSEMENT

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

Dated: Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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DATED: _____
SUN HEUY CHUNG
Respondent

I have read and fully discussed with Respondent Sun Heuy Chung the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____
FREDERICK M. RAY,
Attorney for Respondent

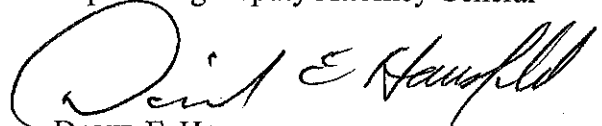
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Dated: 8/19/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5761

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Attorneys for Complainant

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12 In the Matter of the Accusation Against:

Case No. 5761

13 **SUN HEUY CHUNG**
22573 Belaire Drive
14 Moreno Valley, CA 92553

ACCUSATION

15 Pharmacist License No. RPH 53777

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
22 Affairs.

23 2. On August 29, 2002, the Board issued Pharmacist License Number RPH 53777 to
24 Sun Heuy Chung (Respondent). Respondent has also been known as Sun Hevy Chung. The
25 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on June 30, 2016, unless renewed.

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28 ///

1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

6 5. Code section 4300.1 states:

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

11 **STATUTORY PROVISIONS**

12 6. Code section 482 states:

13 Each board under the provisions of this code shall develop criteria to
14 evaluate the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation
18 furnished by the applicant or licensee.

19 7. Code section 490 provides, in pertinent part, that a board may suspend or revoke a
20 license on the ground that the licensee has been convicted of a crime substantially related to the
21 qualifications, functions, or duties of the business or profession for which the license was issued.

22 8. Code section 493 states:

23 Notwithstanding any other provision of law, in a proceeding conducted by a
24 board within the department pursuant to law to deny an application for a license or
25 to suspend or revoke a license or otherwise take disciplinary action against a
26 person who holds a license, upon the ground that the applicant or the licensee has
27 been convicted of a crime substantially related to the qualifications, functions, and
28 duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of
the crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
question.

1 As used in this section, "license" includes "certificate," "permit,"
2 "authority," and "registration."

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

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

8 (f) The commission of any act involving moral turpitude, dishonesty,
9 fraud, deceit, or corruption, whether the act is committed in the course of relations
10 as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

11 (l) The conviction of a crime substantially related to the qualifications,
12 functions, and duties of a licensee under this chapter. The record of conviction of
13 a violation of Chapter 13 (commencing with section 801) of Title 21 of the United
14 States Code regulating controlled substances or of a violation of the statutes of
15 this state regulating controlled substances or dangerous drugs shall be conclusive
16 evidence of unprofessional conduct. In all other cases, the record of conviction
17 shall be conclusive evidence only of the fact that the conviction occurred. The
18 board may inquire into the circumstances surrounding the commission of the
19 crime, in order to fix the degree of discipline or, in the case of a conviction not
20 involving controlled substances or dangerous drugs, to determine if the conviction
21 is of an offense substantially related to the qualifications, functions, and duties of
22 a licensee under this chapter. A plea or verdict of guilty or a conviction following
23 a plea of *nolo contendere* is deemed to be a conviction within the meaning of this
24 provision. The board may take action when the time for appeal has elapsed, or the
25 judgment of conviction has been affirmed on appeal or when an order granting
26 probation is made suspending the imposition of sentence, irrespective of a
27 subsequent order under section 1203.4 of the Penal Code allowing the person to
28 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
the verdict of guilty, or dismissing the accusation, information, or indictment.

22 (p) Actions or conduct that would have warranted denial of a license.

REGULATORY PROVISIONS

10 10. California Code of Regulations, title 16, section 1769, states, in pertinent part:

27 (b) When considering the suspension or revocation of a facility or a
28 personal license on the ground that the licensee or the registrant has been

1 convicted of a crime, the board, in evaluating the rehabilitation of such person and
2 his present eligibility for a license will consider the following criteria:

- 3 (1) Nature and severity of the act(s) or offense(s).
4 (2) Total criminal record.
5 (3) The time that has elapsed since commission of the act(s) or
6 offense(s).
7 (4) Whether the licensee has complied with all terms of parole,
8 probation, restitution or any other sanctions lawfully imposed against the licensee.
9 (5) Evidence, if any, of rehabilitation submitted by the licensee.

10 11. California Code of Regulations, title 16, section 1770, states:

11 For the purpose of denial, suspension, or revocation of a personal or
12 facility license pursuant to Division 1.5 (commencing with Section 475) of the
13 Business and Professions Code, a crime or act shall be considered substantially
14 related to the qualifications, functions or duties of a licensee or registrant if to a
15 substantial degree it evidences present or potential unfitness of a licensee or
16 registrant to perform the functions authorized by his license or registration in a
17 manner consistent with the public health, safety, or welfare.

18 **COST RECOVERY**

19 12. Code section 125.3 provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations
21 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
23 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
24 may be included in a stipulated settlement.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(October 13, 2015 Conviction for Felony Child Endangerment on December 1-31, 2012)**

27 13. Respondent is subject to discipline under sections 490 and 4301, subdivision (l),
28 in that she was convicted of a crime that is substantially related to the qualifications, functions,
and duties of a licensed pharmacist. The circumstances are as follows:

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1 a. On October 13, 2015, in a criminal proceeding entitled *The People of the*
2 *State of California, Plaintiff, v. Sun Hevy Chung, Defendant*, in Riverside County Superior
3 Court, Hall of Justice Courthouse, Criminal Division Case Number RIF1300965, Respondent
4 was convicted on her plea of guilty of violating Penal Code (PC) section 273a, subdivision (a),
5 child endangerment, a felony. Felony charges for violation of PC sections 206, inflicting great
6 bodily injury; 136.1, subdivision (c)(1), dissuading a witness by threat of force or violence; 273d,
7 subdivision (a), corporal punishment upon a child; and two counts of 136.1, subdivision (a)(1),
8 dissuading a witness, were dismissed under a plea bargain.

9 b. As a result of the conviction, on December 28, 2015, Respondent was
10 sentenced to be committed to the custody of the Riverside County Sheriff for 180 days, with
11 credit for one day actually served, and the balance of 179 days to be served in the Leaders in
12 Community Alternatives, Inc. (LCA)¹ Electronic Monitoring Program. Respondent was granted
13 48 months formal probation subject to certain terms and conditions. Respondent was ordered to
14 enroll in a child abuse treatment program and attend for a minimum of one year and participate
15 in an appropriate counseling, rehabilitation, and treatment program. Respondent was also ordered
16 to provide a biological sample under PC section 296 and pay fines, fees, assessments, restitution,
17 pre-sentence incarceration costs, and the costs of probation supervision. Respondent was
18 prohibited from owning, possessing, or having control of any firearm, deadly weapon,
19 ammunition, weapon related paraphernalia, or incendiary device.

20 c. The facts that led to the conviction are that on December 20, 2012, while
21 attending school in Moreno Valley, California, Respondent's six-year old child was told by his
22 teacher that she was going to call his parents to report his misbehavior. Respondent's child got
23 scared and told his teacher that his step-father would get angry, and would hit him with a bat.

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25 ¹ LCA Electronic Monitoring Program is one of the most effective solutions available to help
26 manage realignment and changes relating to AB109. Depending on the type of monitoring
27 required by the court, LCA offers different equipment options. LCA provides the technology,
28 services, and case management to support re-entry and reduction in overcrowding jails. LCA
programs keep clients accountable, while allowing them to keep their jobs, pay taxes, pay court
fines, support their families, make restitution, and reintegrate into the community.

1 The child told his teacher that his step-father hit him the night before and showed her bruises on
2 his stomach. The teacher contacted Child Protection Services, which notified the Riverside
3 County Sheriff's Department. In the course of the investigation, bruises and loop welts were
4 found on the child's head, chest, stomach, back, legs, and other parts of the body. The child had a
5 one inch laceration on the right palm, and callouses on his knees and feet. The child claimed to
6 have been punched on the head and thrown on the ground, which caused the head bruise. The
7 child also narrated that his step-father hit him with a bat, musical drumstick, and jump rope. The
8 laceration on the child's palm was caused by intentional burning of the child's hand on the oven
9 for stealing chocolates. In a search of Respondent's house, the deputies found a jump rope and
10 two wooden musical drumsticks. Respondent admitted that their discipline consisted of "time
11 outs" that could last for days at a time if a child's bad behavior was not corrected to their
12 satisfaction. Respondent also admitted to spanking the child on the buttocks or slapping the child
13 in the face.

14 SECOND CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct - Commission of Acts Involving Moral Turpitude or Deceit)

16 14. Respondent is subject to discipline under Code section 4301, subdivision (f), in
17 that on December 19, 2012 and on other dates, Respondent knew of the abuse her husband
18 inflicted on her child but did nothing to protect him, an act involving moral turpitude and deceit,
19 as detailed in paragraph 13, above.

20 THIRD CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct - Conduct That Would Have Warranted Denial of a License)

22 15. Respondent is subject to discipline under Code section 4301, subdivision (p), in
23 that Respondent was convicted of felony child endangerment, conduct that would have
24 warranted the denial of a pharmacist license under Code section 480, subdivision (a)(1), as
25 detailed in paragraph 13, above.

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1 **DISCIPLINARY CONSIDERATIONS**

2 16. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges:

4 a. On August 27, 2009, the Board received a complaint that a pharmacy
5 technician was working at Respondent's employment pharmacy without a license. An
6 investigation substantiated the claim and the Board issued Citation Number CI 2009 43879
7 against Respondent imposing a fine of \$500.00. On May 5, 2010, Respondent paid the fine in
8 full.

9 b. On April 10, 2012, the Board received a complaint that a patient received
10 the wrong medication on multiple occasions. An investigation substantiated the claim and found
11 that Respondent's employment pharmacy dispensed Valcyte 50 mg/ml to a patient without first
12 reconstituting the medication. In addition, the investigation found that one patient was handed
13 medication and left the pharmacy without being offered consultation. The Board issued Citation
14 Number CI 2012 57425 against Respondent with no fine.

15 c. On March 15, 2013, the Board received a complaint that a pharmacy
16 technician had diverted hydrocodone and alprazolam from Respondent's employment pharmacy
17 from August 2012 until December 2012. An audit of the pharmacy from June 2012 to June 2013
18 revealed 10,920 hydrocodone/acetaminophen 10/325 mg tablets and 2,160 hydrocodone/
19 acetaminophen 7.5/750 mg tablets were missing. On September 18, 2014, the Board issued a
20 letter of admonishment to Respondent.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacist License Number RPH 53777, issued to Sun
25 Heuy Chung;

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2. Ordering Sun Heuy Chung 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

3. Taking such other and further action as deemed necessary and proper.

DATED: 4/8/16

Virginia Herold

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

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