

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

In the Matter of the Accusation Against:

**KAISER PERMANENTE, INC., DBA  
KAISER PERMANENTE PHARMACY #113**  
3900 E. Pacific Coast Hwy  
Long Beach, CA 90804

**Original Permit No. PHY 37029**

**SHALEEN RENEE NISPEROS**  
3057 Springdale Dr. #61  
Long Beach, CA 90810

**Original Pharmacy Technician Registration No.  
TCH 99010**

Case No. 5806

**STIPULATED SETTLEMENT  
AND DISCIPLINARY ORDER AS  
TO RESPONDENT KAISER  
PERMANENTE ONLY**

Respondents.

**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on November 1, 2017.

It is so ORDERED on October 2, 2017.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Victor Law, R.Ph.  
Board Vice President

1 XAVIER BECERRA  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*  
7

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**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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10 In the Matter of the Accusation Against:

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13 **#113**  
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**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER AS TO**  
**RESPONDENT KAISER PERMANENTE,**  
**ONLY**

14 **Original Permit No. PHY 37029**

15 **SHALEEN RENEE NISPEROS**  
16 3057 Springdale Dr. #61  
17 Long Beach, CA 90810

18 **Original Pharmacy Technician Registration**  
**No. TCH 99010**

19 Respondents.  
20

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties<sup>1</sup> to the above-  
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy  
25 ("Board"). She brought this action solely in her official capacity and is represented in this matter  
26

27 <sup>1</sup> The parties to this stipulation are the Board of Pharmacy and Respondent Kaiser  
28 Permanent, Inc., dba Kaiser Permanente Pharmacy #113, only. Respondent Shaleen Nisperos is  
not a party to this stipulation.

1 by Xavier Becerra, Attorney General of the State of California, by Zachary T. Fanselow, Deputy  
2 Attorney General.

3 2. Respondent Kaiser Permanente, Inc., doing business as Kaiser Permanente Pharmacy  
4 #113 ("Respondent") is represented in this proceeding by attorney Beong Kim, whose address is:  
5 393 E. Walnut Street, Pasadena, CA 91188.

6 3. On or about April 5, 1991, the Board issued Original Permit Number PHY 37029 to  
7 Respondent. The Original Permit was in full force and effect at all times relevant to the charges  
8 brought in Accusation No. 5806, and will expire on November 1, 2017, unless renewed.

### 9 JURISDICTION

10 4. Accusation No. 5806 was filed before the Board, and is currently pending against  
11 Respondent. The Accusation and all other statutorily required documents were properly served  
12 on Respondent on March 28, 2017. Respondent timely filed its Notice of Defense contesting the  
13 Accusation.

14 5. A copy of Accusation No. 5806 is attached as Exhibit A and incorporated herein by  
15 reference.

### 16 ADVISEMENT AND WAIVERS

17 6. Respondent has carefully read, fully discussed with counsel, and understands the  
18 charges and allegations in Accusation No. 5806. Respondent has also carefully read, fully  
19 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
20 Order.

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

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

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 5806.

4 10. Respondent agrees that its Original Permit Number PHY 37029 is subject to  
5 discipline and it agrees to be bound by the Board's probationary terms as set forth in the  
6 Disciplinary Order below.

7 CONTINGENCY

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

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

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

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

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Original Permit Number PHY 37029 issued to Respondent  
3 Kaiser Permanente, Inc., doing business as Kaiser Permanente Pharmacy #113, is revoked.  
4 However, the revocation is stayed and Respondent is placed on probation for three (3) years on  
5 the following terms and conditions.

6 **1. Obey All Laws**

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

8 Respondent owner shall report any of the following occurrences to the board, in writing,  
9 within 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 owner's Original Permit Number PHY 37029 or which is  
18 related to the practice of pharmacy or the manufacturing, obtaining, handling or  
19 distributing, billing, or charging for any drug, device or controlled substance.

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

21 **2. Report to the Board**

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

1 extended until such time as the final report is made and accepted by the board.

2 **3. Interview with the Board**

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

8 **4. Cooperate with Board Staff**

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

12 **5. Reimbursement of Board Costs**

13 As a condition precedent to successful completion of probation, Respondent owner shall  
14 pay to the board its costs of investigation and prosecution in the amount of \$6,894.25 Respondent  
15 owner shall make said payments within thirty (30) days of the effective date of the decision.  
16 There shall be no deviation from this schedule absent prior written approval by the board or its  
17 designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of  
18 probation.

19 The filing of bankruptcy by Respondent owner shall not relieve Respondent owner of its  
20 responsibility to reimburse the board its costs of investigation and prosecution.

21 **6. Probation Monitoring Costs**

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

26 **7. Status of License**

27 Respondent owner shall, at all times while on probation, maintain current licensure with the  
28 board. If Respondent owner submits an application to the board, and the application is approved,

1 for a change of location, change of permit or change of ownership, the board shall retain  
2 continuing jurisdiction over the license, and Respondent owner shall remain on probation as  
3 determined by the board. Failure to maintain current licensure shall be considered a violation of  
4 probation.

5 If Respondent owner's Original Permit Number PHY 37029 expires or is cancelled by  
6 operation of law or otherwise at any time during the period of probation, including any extensions  
7 thereof or otherwise, upon renewal or reapplication Respondent owner's Original Permit Number  
8 PHY 37029 shall be subject to all terms and conditions of this probation not previously satisfied.

9 **8. License Surrender While on Probation/Suspension**

10 Following the effective date of this decision, should Respondent owner discontinue  
11 business, Respondent owner may tender the premises license to the board for surrender. The  
12 board or its designee shall have the discretion whether to grant the request for surrender or take  
13 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of  
14 the license, Respondent owner will no longer be subject to the terms and conditions of probation.

15 Upon acceptance of the surrender, Respondent owner shall relinquish the premises wall and  
16 renewal license to the board within ten (10) days of notification by the board that the surrender is  
17 accepted. Respondent owner shall further submit a completed Discontinuance of Business form  
18 according to board guidelines and shall notify the board of the records inventory transfer.

19 Respondent owner shall also, by the effective date of this decision, arrange for the  
20 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written  
21 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that  
22 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating  
23 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five  
24 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy  
25 of the written notice to the board. For the purposes of this provision, "ongoing patients" means  
26 those patients for whom the pharmacy has on file a prescription with one or more refills  
27 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)  
28 days.

1 Respondent owner may not apply for any new licensure from the board for three (3) years  
2 from the effective date of the surrender. Respondent owner shall meet all requirements applicable  
3 to the license sought as of the date the application for that license is submitted to the board.

4 Respondent owner further stipulates that it shall reimburse the board for its costs of  
5 investigation and prosecution prior to the acceptance of the surrender.

6 **9. Notice to Employees**

7 Respondent owner shall, upon or before the effective date of this decision, ensure that all  
8 employees involved in permit operations are made aware of all the terms and conditions of  
9 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
10 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
11 remain posted throughout the probation period. Respondent owner shall ensure that any  
12 employees hired or used after the effective date of this decision are made aware of the terms and  
13 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
14 Respondent owner shall submit written notification to the board, within fifteen (15) days of the  
15 effective date of this decision, that this term has been satisfied. Failure to submit such  
16 notification to the board shall be considered a violation of probation.

17 "Employees" as used in this provision includes all full-time, part-time,  
18 volunteer, temporary and relief employees and independent contractors employed or  
19 hired at any time during probation.

20 **10. Owners and Officers: Knowledge of the Law**

21 Respondent owner shall provide, within thirty (30) days after the effective date of this  
22 decision, signed and dated statements from its owners, including any owner or holder of ten  
23 percent (10%) or more of the interest in Respondent owner or Respondent owner's stock, and any  
24 officer, stating under penalty of perjury that said individuals have read and are familiar with state  
25 and federal laws and regulations governing the practice of pharmacy. The failure to timely  
26 provide said statements under penalty of perjury shall be considered a violation of probation.

27 **11. Posted Notice of Probation**

28 Respondent owner shall prominently post a probation notice provided by the board in a



1 place conspicuous and readable to the public. The probation notice shall remain posted during  
2 the entire period of probation.

3 Respondent owner shall not, directly or indirectly, engage in any conduct or make any  
4 statement which is intended to mislead or is likely to have the effect of misleading any patient,  
5 customer, member of the public, or other person(s) as to the nature of and reason for the probation  
6 of the licensed entity.

7 Failure to post such notice shall be considered a violation of probation.

### 8 **12. Violation of Probation**

9 If a Respondent owner has not complied with any term or condition of probation, the board  
10 shall have continuing jurisdiction over Respondent owner's Original Permit Number PHY 37029,  
11 and probation shall be automatically extended until all terms and conditions have been satisfied or  
12 the board has taken other action as deemed appropriate to treat the failure to comply as a violation  
13 of probation, to terminate probation, and to impose the penalty that was stayed.

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

### 21 **13. Completion of Probation**

22 Upon written notice by the board or its designee indicating successful completion of  
23 probation, Respondent owner's Original Permit Number PHY 37029 will be fully restored.

### 24 **14. Community Services Program**

25 Within sixty (60) days of the effective date of this decision, Respondent owner shall submit  
26 to the board or its designee, for prior approval, a community service program that includes  
27 providing sharps containers as well as free immunization clinics in an amount that adds up to  
28 \$25,000.00 in services.



1 I have read and fully discussed with Respondent Kaiser Permanente, Inc., doing business as  
 2 Kaiser Permanente Pharmacy #113 the terms and conditions and other matters contained in the  
 3 above Stipulated Settlement and Disciplinary Order. I approve its form and content.


4  
 5 DATED: 8/23/17   
 6 NEONA - SOO KIM  
 7 Attorney for Respondent

**ENDORSEMENT**

8  
 9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
 10 submitted for consideration by the Board of Pharmacy.

11 Dated: 8/25/17

12 Respectfully submitted,  
 13 XAVIER BECERRA  
 14 Attorney General of California  
 15 MARG D. GREENBAUM  
 16 Supervising Deputy Attorney General

  
 17 ZACHARY T. FANSELOW  
 18 Deputy Attorney General  
 19 *Attorneys for Complainant.*

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**Exhibit A**

**Accusation No. 5806**

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**Original Pharmacy Technician Registration  
No. TCH 99010**  
  
Respondents.

Case No. 5806

**ACCUSATION**

Complainant alleges:

**PARTIES**

1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs ("Board").
2. On or about April 5, 1991, the Board issued Original Permit Number PHY 37029 to Kaiser Permanente, Inc., doing business as Kaiser Permanente Pharmacy #113 ("Respondent Kaiser"). The Original Permit was in full force and effect at all times relevant to the charges brought herein and will expire on November 1, 2017, unless renewed.



1 pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of  
2 pharmacy."

3 9. Section 4060 states, in pertinent part:

4 "A person shall not possess any controlled substance, except that furnished to a person  
5 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic  
6 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
7 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a  
8 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5,  
9 or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the  
10 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics  
11 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,  
12 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock  
13 in containers correctly labeled with the name and address of the supplier or producer."

14 10. Section 4081 states, in pertinent part:

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

25 "(b) The owner, officer, and partner of a pharmacy, wholesaler, third-party logistics  
26 provider, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-  
27 in-charge, responsible manager, or designated representative-in-charge, for maintaining the  
28 records and inventory described in this section."

1           11. Section 4301 states:

2           "The board shall take action against any holder of a license who is guilty of unprofessional  
3 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
4 not limited to, any of the following:

5           ....

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

9           ....

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

15          ....

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

18          ....

19          "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
20 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
21 federal and state laws and regulations governing pharmacy, including regulations established by  
22 the board or by any other state or federal regulatory agency."

23          12. Health and Safety Code section 11170 states: "No person shall prescribe, administer,  
24 or furnish a controlled substance for himself."

25          13. Health and Safety Code section 11171 states: "No person shall prescribe, administer,  
26 or furnish a controlled substance except under the conditions and in the manner provided by this  
27 division."

28          ///



1 REGULATORY PROVISION

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

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

7 ....  
8 “(d) Each pharmacist while on duty shall be responsible for the security of the prescription  
9 department, including provisions for effective control against theft or diversion of dangerous  
10 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy  
11 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.”

12 COST RECOVERY

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

17 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

18 16. Acetaminophen with Codeine, brand name Tylenol with Codeine #4, is a Schedule III  
19 controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(2), and a  
20 dangerous drug pursuant to Business and Professions Code section 4022.

21 17. Carisoprodol, brand name Soma, is a Schedule IV controlled substance pursuant to  
22 Code of Federal Regulations, title 21, section 1308.14, subdivision (c)(6), and a dangerous drug  
23 pursuant to Business and Professions Code section 4022, as of January 11, 2012.

24 18. Norco, a combination product containing the controlled substance hydrocodone and  
25 non-narcotic acetaminophen, is a Schedule II controlled substance pursuant to Health and Safety  
26 Code section 11055, subdivision (b)(1)(I), and a dangerous drug pursuant to Business and  
27 Professions Code section 4022.

28 ///

1 19. Tramadol, brand name Ultram, is a Schedule IV controlled substances pursuant to the  
2 Federal Controlled Substances Act (21 U.S.C. § 812) and a dangerous drug pursuant to Business  
3 and Professions Code section 4022.

4 **FACTUAL BACKGROUND**

5 20. On or about September 2, 2015, Respondent Kaiser's pharmacist-in-charge James  
6 Crowell ("PIC Crowell") faxed a letter to the Board reporting the theft, diversion and self-use of  
7 acetaminophen with codeine by Respondent Nisperos. The letter indicated that the investigation  
8 was ongoing and the total number of stolen tablets was not yet determined.

9 21. On or about September 16, 2015, PIC Crowell faxed another statement to the Board  
10 that attached a document titled "Executive Summary" which identified a total loss of 12,732  
11 tablets of acetaminophen with codeine 300/60mg from July 17, 2014, to August 24, 2015. The  
12 "Executive Summary" identified a total loss of 5,945 tablets of tramadol 50mg from July 17,  
13 2014, to August 24, 2015, as well as admissions from Respondent Nisperos that she diverted  
14 acetaminophen with codeine and tramadol from Respondent Kaiser.

15 22. On or about October 15, 2015, a Board of Pharmacy Inspector drove to Respondent  
16 Kaiser and interviewed staff from the pharmacy, including PIC Crowell. PIC Crowell indicated  
17 that he received instructions from Kaiser Permanente to provide purchasing records for, as well as  
18 to take daily counts of, acetaminophen with codeine. After reviewing records and beginning  
19 daily counts, PIC Crowell discovered that tablets were missing. In response, pharmacy staff  
20 added a surveillance camera and adjusted the angle of an existing surveillance camera to be able  
21 to directly observe acetaminophen with codeine stored at the Respondent Kaiser. Surveillance  
22 recordings were reviewed nightly and showed Respondent Nisperos diverting and using  
23 acetaminophen with codeine while on duty at Respondent Kaiser.

24 23. On or about October 29, 2015, the Board inspector received an email from a Kaiser  
25 Permanente Pharmacy Investigations Specialist. Attached to the email were pharmacy  
26 acquisition and disposition records as well as a final audit reconciliation, which identified  
27 additional losses of controlled substances and dangerous drugs as follows: 7,006 tablets of  
28 Hydrocodone/APAP 5/325 from July 17, 2013, through July 16, 2014; 4,194 tablets of

1 Hydrocodone/APAP 10/325 from July 17, 2013, through July 16, 2014; 1,569 tablets of  
2 Carisoprodol 350mg from July 17, 2013, through May 27, 2015; and 6,969 tablets of Tramadol  
3 50mg from July 17, 2013, through July 16, 2014.

4 24. The Board inspector identified the following total drug losses at Respondent  
5 Pharmacy:

6 Drug	Date Range	Variance
7 Tramadol 50mg	7/17/13 through 8/24/15	- 12,914 tablets
8 Acetaminophen/Codeine 300/60mg	7/17/14 through 8/24/15	- 12,732 tablets
9 Hydrocodone/APAP 5/325	7/17/13 through 7/16/14	- 7,006 tablets
10 Hydrocodone/APAP 10/325	7/17/13 through 7/16/14	- 4,194 tablets
11 Carisoprodol 350mg	7/17/13 through 5/27/15	- 1,569 tablets

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Theft of Controlled Substances and Dangerous Drugs)**

14 25. Respondent Nisperos is subject to disciplinary action under section 4301, subdivision  
15 (f), for the theft of controlled substances and dangerous drugs from Respondent Kaiser. The  
16 circumstances of the violation include that Respondent Nisperos stole 12,732 tablets of  
17 acetaminophen with codeine 300-60mg and at least 5,945 tablets of tramadol 50mg from  
18 Respondent Kaiser between July 17, 2013, and August 24, 2015. Complainant refers to, and by  
19 this reference incorporates, the allegations set forth in paragraphs 20 through 24, inclusive, as  
20 though set forth fully.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of Drugs and Controlled Substances)**

23 26. Respondent Nisperos is subject to disciplinary action under section 4301, subdivision  
24 (h), for the dangerous use of drugs and controlled substances. The circumstances of the violation  
25 include that Respondent Nisperos admitted, and her admissions are confirmed by surveillance  
26 footage, that she consumed acetaminophen with codeine and tramadol while she was working on-  
27 duty as a pharmacy technician at Respondent Kaiser. Complainant refers to, and by this reference  
28 incorporates, the allegations set forth in paragraphs 20 through 25, inclusive, as though set forth  
fully.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unlawful Possession of a Controlled Substance)

3 27. Respondent Nisperos is subject to disciplinary action under section 4060 for the  
4 unlawful possession of controlled substances. The circumstances of the violation include that  
5 Respondent Nisperos admittedly stole acetaminophen with codeine, a schedule III controlled  
6 substance, from Respondent Kaiser. The controlled substances tramadol 50mg and  
7 acetaminophen with codeine 300-60mg stolen by Respondent Nisperos were not furnished  
8 pursuant to the prescription of a physician. Complainant refers to, and by this reference  
9 incorporates, the allegations set forth in paragraphs 20 through 25, inclusive, as though set forth  
10 fully.

11 FOURTH CAUSE FOR DISCIPLINE

12 (Unlawful Furnishing of a Controlled Substance)

13 28. Respondent Nisperos is subject to disciplinary action under Health and Safety Code  
14 sections 11170 and 11171, in conjunction with section 4301, subdivisions (j) and (o), in that  
15 Respondent Nisperos unlawfully furnished controlled substances to herself. The circumstances of  
16 the violation include that Respondent Nisperos furnished and administered stolen acetaminophen  
17 with codeine 300-60mg, a schedule III controlled substance, and tramadol 50mg, a schedule IV  
18 controlled substance, to herself. Complainant refers to, and by this reference incorporates, the  
19 allegations set forth in paragraphs 20 through 25, inclusive, as though set forth fully.

20 FIFTH CAUSE FOR DISCIPLINE

21 (Lack of Operational Standards and Security)

22 29. Respondent Kaiser is subject to disciplinary action under California Code of  
23 Regulations, title 16, section 1714, subdivision (b), in conjunction with section 4301, subdivision  
24 and (o), in that Respondent Kaiser failed to maintain its facilities, space, fixtures, and equipment  
25 so that its dangerous drugs were maintained in a safe and secure manner. The circumstances of  
26 the violation include that drug audits were performed at Respondent Kaiser and identified the  
27 following drug losses between July 17, 2013, and August 24, 2015: 12,914 tablets of Tramadol  
28 50mg; 12,732 tablets of Acetaminophen/Codeine 300/60mg; 7,006 tablets of Hydrocodone/APAP

1 5/325; 4,194 tablets of Hydrocodone/APAP 10/325; and, 1,569 tablets of Carisoprodol 350mg.  
2 Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs  
3 20 through 25, inclusive, as though set forth fully.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Failure to Keep an Accurate Inventory of Dangerous Drugs and Controlled Substances)**

6 30. Respondent Kaiser is subject to disciplinary action under section 4081, subdivision  
7 (a), in conjunction with section 4301, subdivisions (j) and (o), in that Respondent Kaiser failed to  
8 maintain an accurate inventory of dangerous drugs and controlled substances. The circumstances  
9 of the violation include that Respondent Kaiser's inventory of dangerous drugs and controlled  
10 substances failed to account for thousands of missing tablets of Tramadol 50mg,  
11 Acetaminophen/Codeine 300/60mg, Hydrocodone/APAP 5/325, Hydrocodone/APAP 10/325,  
12 and Carisoprodol 350mg. Complainant refers to, and by this reference incorporates, the  
13 allegations set forth in paragraphs 20 through 25, inclusive, as well as paragraph 29, as though set  
14 forth fully.

15 **PRAYER**

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

- 18 1. Revoking or suspending Original Permit Number PHY 37029 issued to Kaiser  
19 Permanente, Inc., doing business as Kaiser Permanente Pharmacy #113;
- 20 2. Revoking or suspending Original Pharmacy Technician Registration Number TCH  
21 99010 issued to Shaleen Renee Nisperos;
- 22 3. Ordering to Kaiser Permanente, Inc., doing business as Kaiser Permanente Pharmacy  
23 #113, and Shaleen Renee Nisperos to pay the Board of Pharmacy the reasonable costs of the  
24 investigation and enforcement of this case, pursuant to Business and Professions Code section  
25 125.3; and,

26 ///

27 ///

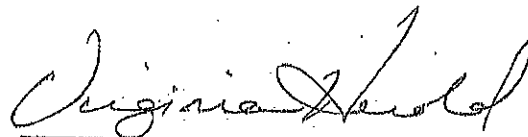
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4. Taking such other and further action as deemed necessary and proper.

DATED:

3/13/17



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

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