

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

In the Matter of the Statement of Issues  
Against:

**HAROLD EUGENE GILLUNG**

**Pharmacist License Applicant**

Respondent.

Case No. 5540

OAH No. 2016020048

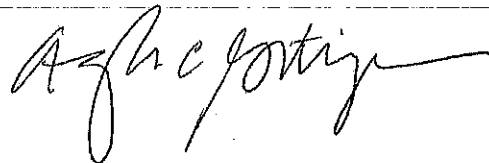
**DECISION AND ORDER**

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 June 6, 2016.

It is so ORDERED on May 5, 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 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 ANTOINETTE B. CINCOTTA  
Supervising Deputy Attorney General  
4 State Bar No. 120482  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2095  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues  
12 Against:

13 **HAROLD EUGENE GILLUNG**

14 **Pharmacist License Applicant**

15 Respondent.  
16

Case No. 5540

OAH No. 2016020048

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy  
21 (Board). She brought this action solely in her official capacity and is represented in this matter by

22 Kamala D. Harris, Attorney General of the State of California, by Antoinette B. Cincotta,  
23 Supervising Deputy Attorney General.

24 2. Respondent Harold Eugene Gillung (Respondent) is representing himself in this  
25 proceeding, and has chosen not to exercise his right to be represented by counsel.

26 3. On or about October 2, 2014, Respondent filed an application dated September 29,  
27 2014, with the Board of Pharmacy to obtain a Pharmacist License. The Board denied the  
28 application on May 19, 2015.

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

JURISDICTION

4. Statement of Issues No. 5540 was filed before the Board, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on January 8, 2016.

5. A copy of Statement of Issues No. 5540 is attached as Exhibit A, and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 5540. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 5540.

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by

1 Respondent. By signing the stipulation, Respondent understands and agrees that he may not  
2 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers  
3 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the  
4 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this  
5 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
6 be disqualified from further action by having considered this matter.

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

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

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

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that upon successful completion of the licensure examination  
21 and all statutory and regulatory requirements for issuance of a pharmacist license, a Pharmacist  
22 License shall be issued to Respondent, and shall be immediately revoked, the order of revocation  
23 stayed, and Respondent shall be placed on probation for five (5) years upon the following terms  
24 and conditions:

25 1. **Obey All Laws**

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

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

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

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

12 **2. Report to the Board**

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

21 **3. Interview with the Board**

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

27 ///

28 ///

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 his  
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 and Order in Case No. 5540 and the terms, conditions and restrictions  
11 imposed 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 his 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 and Order in Case No. 5540, and terms and conditions  
17 imposed thereby. It shall be Respondent's responsibility to ensure that his 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 his direct supervisor, pharmacist-in-charge, and owner at every entity  
21 licensed by the Board of the terms and conditions of the Decision and Order in Case No. 5540 in  
22 advance of the Respondent commencing work at each licensed entity. A record of this  
23 notification must be provided to the Board upon request.

24           Furthermore, within thirty (30) days of the license being issued, and within fifteen (15) days  
25 of Respondent undertaking any new employment by or through a pharmacy employment service,  
26 Respondent shall cause his direct supervisor with the pharmacy employment service to report to  
27 the Board in writing acknowledging that he has read the Decision and Order in Case No. 5540,

28       ///

1 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure  
2 that his employer(s) and/or supervisor(s) submit timely 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 the  
13 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the Board  
14 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. Probation Monitoring Costs**

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

21 **9. Status of License**

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

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

1           **10. License Surrender While on Probation/Suspension**

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

9           Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license  
10 to the Board within ten (10) days of notification by the Board that the surrender is accepted.  
11 Respondent may not reapply for any license from the Board for three (3) years from the effective  
12 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
13 of the date the application for that license is submitted to the Board, including any outstanding  
14 costs.

15           **11. Notification of a Change in Name, Residence Address, Mailing Address or**  
16 **Employment**

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

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

24           **12. Tolling of Probation**

25           Except during periods of suspension, Respondent shall, at all times while on probation, be  
26 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any  
27 month during which this minimum is not met shall toll the period of probation, i.e., the period of  
28 probation shall be extended by one month for each month during which this minimum is not met.



1 During any such period of tolling of probation, Respondent must nonetheless comply with all  
2 terms and conditions of probation.

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

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

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

14 "Resumption of practice" means any calendar month during which Respondent is  
15 practicing as a pharmacist for at least 40 hours as a pharmacist as defined by Business and  
16 Professions Code section 4000 et seq.

17 **13. Violation of Probation**

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

23 If Respondent violates probation in any respect, the Board, after giving Respondent notice  
24 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
25 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
26 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
27 a petition to revoke probation or an accusation is filed against Respondent during probation, the

28 ///

1 Board shall have continuing jurisdiction and the period of probation shall be automatically  
2 extended until the petition to revoke probation or accusation is heard and decided.

3 **14. Completion of Probation**

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

6 **15. Pharmacists Recovery Program (PRP)**

7 Within thirty (30) days of the effective date of this decision, Respondent shall contact the  
8 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,  
9 successfully participate in, and complete the treatment contract and any subsequent addendums as  
10 recommended and provided by the PRP and as approved by the Board or its designee. The costs  
11 for PRP participation shall be borne by Respondent.

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

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

18 Probation shall be automatically extended until respondent successfully completes the PRP.  
19 Any person terminated from the PRP program shall be automatically suspended by the Board.  
20 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

21 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a  
22 licensed practitioner as part of a documented medical treatment shall result in the automatic  
23 suspension of practice by Respondent, and shall be considered a violation of probation.  
24 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

25 During suspension, respondent shall not enter any pharmacy area or any portion of the  
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
27 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices  
28 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

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

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

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

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

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

16 **16. Random Drug Screening**

17 Respondent, at his own expense, shall participate in random testing, including but not  
18 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
19 screening program as directed by the Board or its designee. Respondent may be required to  
20 participate in testing for the entire probation period and the frequency of testing will be  
21 determined by the Board or its designee. At all times, Respondent shall fully cooperate with the  
22 Board or its designee, and shall, when directed, submit to such tests and samples for the detection  
23 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or  
24 its designee may direct. Failure to timely submit to testing as directed shall be considered a  
25 violation of probation. Upon request of the Board or its designee, Respondent shall provide  
26 documentation from a licensed practitioner that the prescription for a detected drug was  
27 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely  
28 provide such documentation shall be considered a violation of probation. Any confirmed positive

1 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a  
2 documented medical treatment shall be considered a violation of probation, and shall result in the  
3 automatic suspension of practice of pharmacy by Respondent. Respondent may not resume the  
4 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 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
18 licensed premises in which he holds an interest at the time this decision becomes effective, unless  
19 otherwise specified in this order.

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

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

22 Respondent shall completely abstain from the possession or use of alcohol, controlled  
23 substances, dangerous drugs and their associated paraphernalia except when the drugs are  
24 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon  
25 request of the Board or its designee, Respondent shall provide documentation from the licensed  
26 practitioner that the prescription for the drug was legitimately issued, and is a necessary part of  
27 the treatment of the respondent. Failure to timely provide such documentation shall be  
28 considered a violation of probation. Respondent shall ensure that he is not in the same physical

1 location as individuals who are using illicit substances even if Respondent is not personally  
2 ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated  
3 paraphernalia not supported by the documentation timely provided, and/or any physical proximity  
4 to persons using illicit substances, shall be considered a violation of probation.

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

6 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the  
7 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
8 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the Respondent's  
9 history with the use of controlled substances and/or dangerous drugs, and who will coordinate and  
10 monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-  
11 altering drugs. The approved practitioner shall be provided with a copy of the Board's Decision  
12 and Order in Case No. 5540. A record of this notification must be provided to the Board upon  
13 request. Respondent shall sign a release authorizing the practitioner to communicate with the  
14 Board about Respondent's treatment(s). The coordinating physician, nurse practitioner, physician  
15 assistant, or psychiatrist shall report to the Board on a quarterly basis for the duration of probation  
16 regarding Respondent's compliance with this condition. If any substances considered addictive  
17 have been prescribed, the report shall identify a program for the time limited use of any such  
18 substances. The Board may require that the single coordinating physician, nurse practitioner,  
19 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in  
20 addictive medicine. Should Respondent, for any reason, cease supervision by the approved  
21 practitioner, Respondent shall notify the Board immediately and, within thirty (30) days of  
22 ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician  
23 assistant, or psychiatrist of Respondent's choice to the Board or its designee for its prior approval.  
24 Failure to timely submit the selected practitioner or replacement practitioner to the Board for  
25 approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered  
26 a violation of probation.

27 If at any time an approved practitioner determines that Respondent is unable to practice  
28 safely or independently as a pharmacist, the practitioner shall notify the Board immediately by

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

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

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

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

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

20 **19. Supervised Practice**

21 During the period of probation, Respondent shall practice only under the supervision of a  
22 licensed pharmacist not on probation with the Board. Upon and after the effective date of this  
23 decision, Respondent shall not practice pharmacy and his license shall be automatically  
24 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,  
25 as required by the Board or its designee, either:

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

27 Substantial - At least 50% of a work week

28 Partial - At least 25% of a work week

1 Daily Review - Supervisor's review of probationer's daily activities within 24 hours  
2 Within thirty (30) days of the effective date of this decision, Respondent shall have his  
3 supervisor submit notification to the Board in writing stating that the supervisor has read the  
4 Decision and Order in Case Number 5540, and is familiar with the required level of supervision  
5 as determined by the Board or its designee. It shall be Respondent's responsibility to ensure that  
6 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to  
7 the Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
8 acknowledgements to the Board shall be considered a violation of probation.

9 If Respondent changes employment, it shall be Respondent's responsibility to ensure that  
10 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to  
11 the Board. Respondent shall have his new supervisor, within fifteen (15) days after employment  
12 commences, submit notification to the Board in writing stating the direct supervisor and  
13 pharmacist-in-charge have read the Decision and Order in Case Number 5540, and is familiar  
14 with the level of supervision as determined by the Board. Respondent shall not practice  
15 pharmacy and his license shall be automatically suspended until the Board or its designee  
16 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to  
17 submit timely acknowledgements to the Board shall be considered a violation of probation.

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

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

27 During suspension, Respondent shall not engage in any activity that requires the  
28 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
2 designated representative for any entity licensed by the Board.

3 Subject to the above restrictions, Respondent may continue to own or hold an interest in  
4 any licensed premises in which he holds an interest at the time this Decision and Order becomes  
5 effective unless otherwise specified in this Disciplinary Order.

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

7 **20. No Ownership of Licensed Premises**

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

15 **21. Ethics Course**

16 Within sixty (60) calendar days of the effective date of this Decision and Order,  
17 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by  
18 the Board or its designee. Failure to initiate the course during the first year of probation, and  
19 complete it within the second year of probation, is a violation of probation. The ethics course  
20 shall be in addition to, and shall not be credited toward, continuing education (CE) courses used  
21 for license renewal purposes.

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

24 ACCEPTANCE

25 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
26 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated

27 ///

28 ///

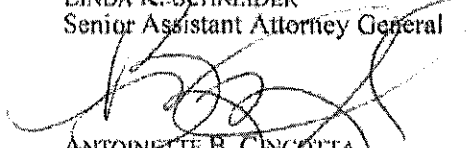


1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
2 bound by the Decision and Order of the Board of Pharmacy.

3  
4 DATED: 2-22-2016   
5 HAROLD EUGENE GILLUNG  
6 Respondent

7 ENDORSEMENT

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

10 Dated: 2/23/2016 Respectfully submitted,  
11 KAMALA D. HARRIS  
12 Attorney General of California  
13 LINDA K. SCHNEIDER  
14 Senior Assistant Attorney General  
15   
16 ANTOINETTE B. CINCOTTA  
17 Supervising Deputy Attorney General  
18 Attorneys for Complainant

19 SD2015801741  
20 81272821.doc  
21

**Exhibit A**

**Statement of Issues No. 5540**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ANTOINETTE B. CINCOTTA  
Deputy Attorney General  
4 State Bar No. 120482  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2095  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Statement of Issues  
Against:

Case No. 5540

13 **HAROLD EUGENE GILLUNG**

**STATEMENT OF ISSUES**

14 **Pharmacist License Applicant**

15 Respondent.  
16

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about October 2, 2014, the Board received an application for a Pharmacist  
23 License from Harold Eugene Gillung (Respondent). On or about September 29, 2014, Harold  
24 Eugene Gillung certified under penalty of perjury to the truthfulness of all statements, answers,  
25 and representations in the application. The Board denied the application on May 19, 2015.

26 ///

27 ///

28 ///

1 JURISDICTION

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

5 4. Section 480 of the Code states:

6 (a) A board may deny a license regulated by this code on the grounds that  
the applicant has one of the following:

7 (1) Been convicted of a crime. A conviction within the meaning of this  
8 section means a plea or verdict of guilty or a conviction following a plea of nolo  
9 contendere. Any action that a board is permitted to take following the  
10 establishment of a conviction may be taken when the time for appeal has elapsed,  
or the judgment of conviction has been affirmed on appeal, or when an order  
11 granting probation is made suspending the imposition of sentence, irrespective of a  
subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of  
the Penal Code.

12 (2) Done any act involving dishonesty, fraud, or deceit with the intent to  
substantially benefit himself or herself or another, or substantially injure another.

13 (3) (A) Done any act that if done by a licentiate of the business or  
14 profession in question, would be grounds for suspension or revocation of license.

15 (B) The board may deny a license pursuant to this subdivision only if the  
crime or act is substantially related to the qualifications, functions, or duties of the  
16 business or profession for which application is made.

17 (b) Notwithstanding any other provision of this code, a person shall not be  
denied a license solely on the basis that he or she has been convicted of a felony if  
18 he or she has obtained a certificate of rehabilitation under Chapter 3.5  
(commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that  
19 he or she has been convicted of a misdemeanor if he or she has met all applicable  
requirements of the criteria of rehabilitation developed by the board to evaluate the  
20 rehabilitation of a person when considering the denial of a license under  
subdivision (a) of Section 482.

21 (c) Notwithstanding any other provisions of this code, a person shall not be  
denied a license solely on the basis of a conviction that has been dismissed  
22 pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant  
who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a,  
23 or 1203.41 of the Penal Code shall provide proof of the dismissal.

24 (d) A board may deny a license regulated by this code on the ground that the  
25 applicant knowingly made a false statement of fact required to be revealed in the  
application for the license.

26 ///

27 ///

28 ///

1 5. Section 4300 of the Code states in relevant part:  
2

3 (c) The board may refuse a license to any applicant guilty of unprofessional  
4 conduct. The board may, in its sole discretion, issue a probationary license to any  
5 applicant for a license who is guilty of unprofessional conduct and who has met all  
6 other requirements for licensure. The board may issue the license subject to any  
7 terms or conditions not contrary to public policy, including, but not limited to, the  
8 following:

9 (1) Medical or psychiatric evaluation.

10 (2) Continuing medical or psychiatric treatment.

11 (3) Restriction of type or circumstances of practice.

12 (4) Continuing participation in a board-approved rehabilitation program.

13 (5) Abstention from the use of alcohol or drugs.

14 (6) Random fluid testing for alcohol or drugs.

15 (7) Compliance with laws and regulations governing the practice of  
16 pharmacy.

17 (e) The proceedings under this article shall be conducted in accordance with  
18 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
19 Government Code, and the board shall have all the powers granted therein. The  
20 action shall be final, except that the propriety of the action is subject to review by  
21 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

#### 22 STATUTORY AUTHORITY

23 6. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a  
25 board within the department pursuant to law to deny an application for a license or  
26 to suspend or revoke a license or otherwise take disciplinary action against a  
27 person who holds a license, upon the ground that the applicant or the licensee has  
28 been convicted of a crime substantially related to the qualifications, functions, and  
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.

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

///

///

1 7. Section 4301 of the Code states in relevant part:

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

6 ...

7 (n) The revocation, suspension, or other discipline by another state of a  
8 license to practice pharmacy, operate a pharmacy, or do any other act for which a  
9 license is required by this chapter.

10 ....

### 11 REGULATIONS

12 8. California Code of Regulations, title 16, section 1770, states:

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

### 20 DRUGS

21 9. Cocaine is a Schedule II controlled substance pursuant to Health and Safety Code  
22 section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code  
23 section 4022.

24 10. Dilaudid, a brand name for hydromorphone, is a Schedule II controlled substance  
25 pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant  
26 to Business and Professions Code section 4022.

27 11. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety  
28 Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions  
Code section 4022.

12. Meprozine, also known as Meperidine and pethidine, is a Schedule II controlled  
substance to Health and Safety Code section 11055, subdivision (c)(17), and a dangerous drug  
pursuant to Business and Professions Code section 4022.

///

1 13. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code  
2 section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code  
3 section 4022.

4 14. Piperacillin, an antibiotic, is a dangerous drug pursuant to Business and Professions  
5 Code section 4022.

6 **FIRST CAUSE FOR DENIAL OF APPLICATION**

7 **(September 22, 2008 – Felony Conviction for Drug Tampering)**

8 15. Respondent's application is subject to denial under Code 480, subsection (a)(1) in that  
9 Respondent was convicted of drug tampering, a felony, which is substantially related to the duties  
10 and responsibilities of a pharmacist. The circumstances are as follows:

11 a. On or about February 26, 2008, in *United States of America v. Harold Gillung*,  
12 in the District Court of the United States, District of South Carolina, Florence Division, Criminal  
13 Case No. 4:08-175, Respondent was indicted by a grand jury for violation of Title 18, United  
14 States Code, section 1365(a)(4), tampering with drugs, a felony, based on a finding that from  
15 February 2006 to in or about August 2006, while working as a pharmacist in the District of South  
16 Carolina, Respondent removed Meprozine, a Schedule III controlled substance, from capsules that  
17 were to be dispensed by the pharmacy and substituted Hydrocodone, a Schedule III controlled  
18 substance, and other substances, into the capsules to replace the Meprozine that he had removed,  
19 and such altered capsules were subsequently dispensed to customers of the pharmacy where  
20 Respondent worked.

21 b. On July 11, 2008, Respondent pled guilty to violation of Title 18, United States  
22 Code, Section 1365(a)(4), tampering with drugs. Respondent admitted that he diverted 50  
23 capsules of Meprozine from the pharmacy where he worked for his personal use.

24 c. On September 22, 2008, based on his guilty plea, Respondent was convicted of  
25 violation Title 18, United States Code, Section 1365(a)(4), tampering with drugs, a felony.  
26 Respondent was sentenced to imprisonment for 12 months in the custody of the United States  
27 Bureau of Prisons. Upon release from imprisonment, Respondent was ordered to be on  
28 supervised release for a term of three years. While on supervised release, Respondent was

1 ordered to satisfactorily participate in a substance abuse treatment program, to include drug  
2 testing, and satisfactorily participate in a mental health treatment program as approved by the U.S.  
3 Probation Office.

4 e. On November 24, 2009, after completing 12 months of imprisonment,  
5 Respondent was placed on supervised release for a period of three years. On November 8, 2011,  
6 Respondent was ordered discharged from supervised release.

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

8 **(Out of State Discipline – 2008 South Carolina)**

9 16. Respondent's application is subject to denial under Code 480, subsection (a)(3) in that  
10 Respondent's pharmacist license issued by the State of South Carolina was revoked, which act if  
11 done to a California licensed pharmacist, would be grounds for suspension or revocation of  
12 license under Code section 4301, subsection (n), as set forth in paragraph 15, above, which is  
13 incorporated here by this reference and as follows:

14 17. On July 16, 2007, after Respondent was indicted by a grand jury with violation of  
15 Title 18, United States Code, section 1365(a)(4), tampering with drugs, *In the Matter of: Harold*  
16 *E. Gillung, R.Ph.*, the South Carolina Board suspended Respondent's license to practice  
17 pharmacy, effective immediately.

18 18. On September 18, 2008, Respondent entered into an Agreement to Relinquish  
19 License to Practice Pharmacy with the South Carolina Board. Under the terms of the agreement,  
20 Respondent agreed to cease the authorization to practice as a pharmacist immediately, waive  
21 further proceedings, and give up forevermore the right to practice as a pharmacist in South  
22 Carolina.

23 **THIRD CAUSE FOR DENIAL OF APPLICATION**

24 **(November 16, 1992 Felony Conviction Embezzlement of a Controlled Substance)**

25 19. Respondent's application is subject to denial under Code 480, subsection (a)(1) in that  
26 Respondent was convicted of embezzlement of a controlled substance, a felony, which is  
27 substantially related to the duties and responsibilities of a pharmacist. The circumstances are as  
28 follows:



1 a. On or about November 16, 1992, in Richmond County Superior Court, in the  
2 matter *People vs. Harold Gillung*, Respondent pled guilty to one count of embezzlement of a  
3 controlled substance, for which he received a sentence of two years imprisonment, with the  
4 imprisonment suspended in favor of probation, and was ordered to surrender his pharmacist  
5 license until its return was approved by a judge of the Superior Court.

6 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

7 **(Out of State Discipline – North Carolina 1993)**

8 20. Respondent's application is subject to denial under Code 480, subsection (a)(3) in that  
9 Respondent's pharmacist license issued by the State of North Carolina was revoked, which act if  
10 done to a California licensed pharmacist, would be grounds for suspension or revocation of  
11 license under Code section 4301, subsection (n), as set forth in paragraph 19, above, which is  
12 incorporated here by this reference and as follows:

13 a. On May 10, 1993, the North Carolina Board of Pharmacy issued a final order in the  
14 case captioned *In the Matter of: Harold Eugene Gillung*, license no. 11532, revoking  
15 Respondent's license to practice pharmacy in North Carolina.

16 b. The North Carolina Board found as fact that Respondent, while pharmacist manager  
17 of the Richmond Memorial Hospital in Rockingham, North Carolina:

18 (1) took morphine injectables from the hospital pharmacy from December of 1991  
19 through May of 1992 and administered the morphine to himself, using about 100mg a day;

20 (2) took cocaine from the hospital pharmacy in March of 1992 and used the cocaine  
21 himself;

22 (3) took Dilaudid tablets from the hospital pharmacy and administered the drugs to  
23 himself;

24 (4) took Fentanyl from the hospital pharmacy;

25 (5) attempted to conceal his thefts by replacing the morphine with saline and the  
26 cocaine with Piperacilin, by regluing and replacing factory seals on the morphine containers, and  
27 by altering narcotics logs; and  
28

1 (6) pled guilty to one count of embezzlement of a controlled substance, for which he  
2 received a sentence of two years imprisonment, with the imprisonment suspended in favor of  
3 probation, and was ordered to surrender his pharmacist license until its return was approved by a  
4 judge of the Superior Court.

5 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

6 **(Out of State Discipline - South Carolina 1994)**

7 21. Respondent's application is subject to denial under Code 480, subsection (a)(3) in that  
8 Respondent's pharmacist license issued by the State of South Carolina was revoked, which act if  
9 done to a California licensed pharmacist, would be grounds for suspension or revocation of  
10 license under Code section 4301, subsection (n), as set forth in paragraph 19 through 20, above,  
11 which are incorporated here by this reference and as follows:

12 a. On June 30, 1994, the South Carolina State Board of Pharmacy issued a final  
13 order in the case captioned, *In the Matter of: Harold Eugene Gillung, R.Ph.*, license no. 7285,  
14 suspending Respondent's license to practice pharmacy in South Carolina for not less than two  
15 years.

16 b. The circumstances are as follows: Respondent became addicted to morphine  
17 while working as a pharmacist in Pennsylvania in 1984 or 1985. Respondent entered drug  
18 treatment voluntarily in 1987. Respondent moved from Pennsylvania to South Carolina after he  
19 completed his drug treatment in 1987. After he was released from drug treatment in 1987,  
20 Respondent did not avail himself to any follow-up care. Respondent obtained a license to practice  
21 pharmacy in South Carolina in September 1989. Respondent obtained a license to practice  
22 pharmacy in North Carolina through reciprocity with South Carolina in October 1991, and took  
23 the position of pharmacist manager and director of the pharmacy of Richmond Memorial  
24 Hospital. Respondent relapsed into drug abuse in December 1991, abusing morphine and other  
25 controlled substances both while at work and away from work, until May 1992, when he again  
26 entered treatment. The South Carolina State Board of Pharmacy based its decision on the findings  
27 of the North Carolina Board of Pharmacy, and on a finding that Respondent had checked "no" to  
28 a question on his 1994 license renewal application which asked whether he had been convicted

1 for violations of criminal law or had any disciplinary action imposed by any other state board of  
2 pharmacy since his last renewal when in fact Respondent had been disciplined by the North  
3 Carolina Board of Pharmacy on May 10, 1993.

4 c. Respondent was ordered eligible to reinstate his South Carolina license after his  
5 suspension if he participated in a South Carolina Board of Pharmacy approved aftercare program  
6 and submitted quarterly progress reports to the South Carolina Board during the period of his  
7 suspension, and did not abuse drugs during this period.

#### 8 SIXTH CAUSE FOR DENIAL OF APPLICATION

##### 9 (Out of State Discipline – Pennsylvania 1995)

10 22. Respondent's application is subject to denial under Code 480, subsection (a)(3) in that  
11 Respondent's pharmacist license issued by the State of Pennsylvania was revoked, which act if  
12 done to a California licensed pharmacist, would be grounds for suspension or revocation of  
13 license under Code section 4301, subsection (n), as set forth in paragraphs 19 thorough 21, above,  
14 which are incorporated here by this reference and as follows:

15 a. On or about November 29, 1994, in the matter of the *Commonwealth of*  
16 *Pennsylvania, Bureau of Professional and Occupational Affairs v. Harold E. Gillung, R.Ph.*, in  
17 file number 92-54-02486, the Pennsylvania State Board of Pharmacy (Pennsylvania Board) filed a  
18 notice and order to show cause alleging that Respondent violated sections 5(a)(5) and (10) of the  
19 Pennsylvania Pharmacy Act, Act of September 27, 1961, P.L. 1700, as amended, 63 P.S. sections  
20 390-5(a)(5) and (1), as a result of having his license to practice pharmacy in North Carolina  
21 revoked on May 10, 1993, and his license to practice pharmacy in South Carolina suspended for a  
22 period of not less than two years on June 30, 1994.

23 b. On or about February 8, 1995, Respondent admitted the allegations in the order  
24 to show cause, and alleged mitigating circumstances.

25 c. On January 10, 1995, a formal hearing was held before the Pennsylvania Board.  
26 The Pennsylvania Board found as fact that Respondent while pharmacist manager of the  
27 Richmond Memorial Hospital in Rockingham, North Carolina: (1) took morphine injectables  
28 from the hospital pharmacy from December of 1991 through May of 1992 and administered the

1 morphine to himself, using about 100 mg a day; (2) took cocaine from the hospital pharmacy in  
2 March of 1992 and used the cocaine on himself; (3) took Dilaudid tablets from the hospital  
3 pharmacy and administered the drugs to himself; (4) took Fentanyl from the hospital pharmacy;  
4 and (5) attempted to conceal his thefts by replacing the morphine with saline and the cocaine with  
5 Piperacillin, by regluing and replacing factory seals on the morphine containers, and by altering  
6 narcotics logs. The Pennsylvania Board also found as fact that Respondent pleaded guilty on  
7 November 17, 1992, in Richmond County Superior Court to one count of embezzlement of a  
8 controlled substance, for which he received a sentence of two years imprisonment, with the  
9 imprisonment suspended in favor of probation, and was ordered to surrender his pharmacist  
10 license until its return was approved by a judge of the Superior Court. The Pennsylvania Board  
11 also found as fact that the South Carolina State Board of Pharmacy issued a final order on June  
12 30, 1994, in the case captioned *In the Matter of: Harold Eugene Gillung, R.Ph.*, License No.  
13 7285, suspending the Respondent's license to practice pharmacy in South Carolina for not less  
14 than two years based on the findings of the North Carolina Board, and a finding that Respondent  
15 had checked "no" to a question on his 1994 license renewal application which asked whether he  
16 had been convicted for violations of criminal law or had any disciplinary action imposed by any  
17 other state board of pharmacy since his last renewal when in fact Respondent had been disciplined  
18 by the North Carolina Board on May 10, 1993.

19 d. On May 16, 1995, the Pennsylvania Board suspended Respondent's license to  
20 practice pharmacy indefinitely. The Pennsylvania Board further ordered that Respondent may  
21 apply for reinstatement only after his licenses to practice pharmacy in North Carolina and South  
22 Carolina are reinstated, and that the Board will then reinstate Respondent's license if he proves at  
23 a formal hearing that he has maintained unbroken sobriety for the three years preceding his formal  
24 hearing, and has maintained his continuing education during the period of his suspension.

25 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

26 **(Engaged in Acts Involving Dishonesty, Fraud, or Deceit)**

27 23. Respondent's application is subject to denial under Code 480, subsection (a)(2) in that  
28 Respondent engaged in acts involving dishonesty, fraud or deceit with the intent to substantially

1 benefit himself or substantially injury another which is substantially related to the duties and  
2 responsibilities of a pharmacist , as set forth in paragraph 15 through 22, above, which are  
3 incorporated here by this reference.

4 **PRAYER**

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

- 7 1. Denying the application of Harold Eugene Gillung for a Pharmacist License;  
8 2. Taking such other and further action as deemed necessary and proper.

9  
10 DATED: 12/21/15



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

11  
12  
13  
14  
15 SID2015801741  
81211055.doc