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8

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

11 In the Matter of the Petition to Revoke
12 Probation Against,

Case No. 4462

13 **LISA F. DAVIS**
14 **12857 Frederick Street #207**
Moreno Valley, CA 92553

PETITION TO REVOKE PROBATION

15 **Pharmacist License No. RPH 42690**

16 Respondent.
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18 Complainant alleges:
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20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
22 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
23 Affairs.

24 2. On or about August 8, 1989, the Board of Pharmacy issued Pharmacist License
25 Number RPH 42690 to Lisa F. Davis (Respondent). The Pharmacist License was in effect at all
26 times relevant to the charges brought herein and will expire on August 31, 2013, unless renewed.
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1 3. In a disciplinary action entitled "In the Matter of Accusation Against Lisa F. Davis,"
2 Case No. 3868, the Board of Pharmacy, issued a decision, effective April 12, 2012, in which
3 Respondent's Pharmacist License was revoked. However, the revocation was stayed and
4 Respondent's Pharmacist License was placed on probation for a period of five (5) years with
5 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated
6 by reference.

7 **JURISDICTION**

8 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
9 Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

11 5. Section 118(b) provides, in pertinent part, that the expiration of a license issued by
12 the board, shall not, during any period in which it may be renewed, deprive the board of its
13 authority to institute or continue a disciplinary proceeding against the licensee.

14 6. This Petition to Revoke Probation is brought pursuant to Paragraph 15 of the
15 Disciplinary Order in Case No. Case No. 3868 referenced in paragraph 3, which states:

16 VIOLATION OF PROBATION

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

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

1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Interview with Board)**

3 7. At all times after the effective date of Respondent's probation, Condition 4 stated:

4 **INTERVIEW WITH THE BOARD**

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

11 8. Respondent's probation is subject to revocation because she failed to comply with
12 Probation Condition 4, referenced above, in that on April 5, 2012, the Board sent Respondent a
13 letter requiring her to appear in person at a Board probation office conference on April 23, 2012.
14 Respondent failed to appear at that interview without prior notification to Board staff.

15 **SECOND CAUSE TO REVOKE PROBATION**

16 **(Mental Health Examination)**

17 9. At all times after the effective date of Respondent's probation, Condition 17 stated:

18 **MENTAL HEALTH EXAMINATION**

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

28 If the evaluator recommends, and the board or its designee directs, respondent shall
undergo psychotherapy. Within thirty (30) days of notification by the board that a
recommendation for psychotherapy has been accepted, respondent shall submit to the
board or its designee, for prior approval, the name and qualification of a licensed
mental health practitioner of respondent's choice. Within thirty (30) days of approval
thereof by the board, respondent shall submit documentation to the board
demonstrating the commencement of psychotherapy with the approved licensed
mental health practitioner. Should respondent, for any reason, cease treatment with
the approved licensed mental health practitioner, respondent shall notify the board
immediately and, within thirty (30) days of ceasing treatment therewith, submit the
name of a replacement licensed mental health practitioner of respondent's choice to
the board for its prior approval. Within thirty (30) days of approval thereof,
respondent shall submit documentation to the board demonstrating the

1 commencement of psychotherapy with the approved replacement. Failure to comply
2 with any requirement or deadline stated by this paragraph shall be considered a
3 violation of probation.

4 Upon approval of the initial or any subsequent licensed mental health practitioner,
5 respondent shall undergo and continue treatment with that therapist, at respondent's
6 own expense, until the therapist recommends in writing to the board, and the board or
7 its designee agrees by way of a written notification to respondent, that no further
8 psychotherapy is necessary. Upon receipt of such recommendation from the treating
9 therapist, and before determining whether to accept or reject said recommendation,
10 the board or its designee may require respondent to undergo, at respondent's expense,
11 a mental health evaluation by a separate board-appointed or board-approved
12 evaluator. If the approved evaluator recommends that respondent continue
13 psychotherapy, the board or its designee may require respondent to continue
14 psychotherapy.

15 Psychotherapy shall be at least once a week unless otherwise approved by the board.
16 Respondent shall provide the therapist with a copy of the board's Accusation and
17 decision no later than the first therapy session. Respondent shall take all necessary
18 steps to ensure that the treating therapist submits written quarterly reports to the board
19 concerning respondent's fitness to practice, progress in treatment, and other such
20 information as may be required by the board or its designee.

21 If at any time the approved evaluator or therapist determines that respondent is unable
22 to practice safely or independently as a pharmacist, the licensed mental health
23 practitioner shall notify the board immediately by telephone and follow up by written
24 letter within three (3) working days. Upon notification from the board or its designee
25 of this determination, respondent shall be automatically suspended and shall not
26 resume practice until notified by the board that practice may be resumed.

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

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

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

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

If recommended by the evaluating licensed mental health practitioner and approved
by the board, respondent shall be suspended from practicing pharmacy until
respondent's treating therapist recommends, in writing, stating the basis therefore,

1 that respondent can safely practice pharmacy, and the board or its designee approves
said recommendation.

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

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

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

21 10. Respondent's probation is subject to revocation because she failed to comply with
22 Probation Condition 17, referenced above, in that she failed to undergo a psychiatric evaluation
23 by a Board-appointed or Board-approved licensed mental health practitioner.

24 THIRD CAUSE TO REVOKE PROBATION

25 (Pharmacists Recovery Program)

26 11. At all times after the effective date of Respondent's probation, Condition 18 stated:

27 PHARMACISTS RECOVERY PROGRAM

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

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

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

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

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

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

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

18 Subject to the above restrictions, Respondent may continue to own or hold
19 an interest in any licensed premises in which she holds an interest at the time this
20 Decision becomes effective unless otherwise specified in this order.

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

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

27 Respondent shall work in a pharmacy setting with access to controlled
28 substances for six (6) consecutive months before successfully completing
probation. If Respondent fails to do so, probation shall be automatically extended
until this condition has been met. Failure to satisfy this condition within six (6).

1 months beyond the original date of expiration of the term of probation shall be
2 considered a violation of probation.

3 12. Respondent's probation is subject to revocation because she failed to comply with
4 Probation Condition 18, referenced above, in that Respondent failed to enroll, participate in and
5 complete the treatment contract and/or addendums of the PRP program.

6 FOURTH CAUSE TO REVOKE PROBATION

7 (Random Drug Screening)

8 13. At all times after the effective date of Respondent's probation, Condition 19 stated:

9 RANDOM DRUG SCREENING

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

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

During suspension Respondent shall not engage in any activity that requires
the professional judgment of a pharmacist. Respondent shall not direct or control
any aspect of the practice of pharmacy. Respondent shall not perform the duties of

1 a pharmacy technician or a designated representative for any entity licensed by the
2 Board.

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

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

8 14. Respondent's probation is subject to revocation because she failed to comply with
9 Probation Condition 19, referenced above, in that Respondent failed to participate in random drug
10 testing as directed by the Board.

11 **FIFTH CAUSE TO REVOKE PROBATION**

12 **(Prescription Coordination and Monitoring of Prescription Use)**

13 15. At all times after the effective date of Respondent's probation, Condition 21 stated:

14 **PRESCRIPTION COORDINATION AND MONITORING OF**
15 **PRESCRIPTION USE**

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

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

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

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

22 Subject to the above restrictions, Respondent may continue to own or hold
23 an interest in any licensed premises in which she holds an interest at the time this
24 Decision becomes effective unless otherwise specified in this order.

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

27 16. Respondent's probation is subject to revocation because she failed to comply with
28 Probation Condition 21, referenced above, in that Respondent failed to submit to the Board, for
its prior approval, the name and qualifications of a single physician, nurse practitioner, physician
assistant, or psychiatrist of Respondent's choice, to coordinate and monitor any prescriptions,
within thirty days of the effective date of the Decision.

SIXTH CAUSE TO REVOKE PROBATION

(Community Service Program)

17. At all times after the effective date of Respondent's probation, Condition 22 stated:

COMMUNITY SERVICE PROGRAM

Within sixty (60) days of the effective date of this decision, respondent shall
submit to the board or its designee, for prior approval, a community service program
in which respondent shall provide free health-care related services on a regular basis

1 to a community or charitable facility or agency for at least 150 hours served over 5
2 years of probation and before probation is terminated. Within thirty (30) days of
3 board approval thereof, respondent shall submit documentation to the board
4 demonstrating commencement of the community service program. A record of this
5 notification must be provided to the board upon request. Respondent shall report on
6 progress with the community service program in the quarterly reports. Failure to
7 timely submit, commence, or comply with the program shall be considered a violation
8 of probation.

9 18. Respondent's probation is subject to revocation because she failed to comply
10 with Probation Condition 22, referenced above, in that she failed to submit to the Board for prior
11 approval, a community service program in which Respondent shall provide free health-care
12 related services on a regular basis to a community or charitable facility or agency for at least 150
13 hours served over 5 years of probation and before probation is terminated.

14 SEVENTH CAUSE TO REVOKE PROBATION

15 (Ethics Course)

16 19. At all times after the effective date of Respondent's probation, Condition 27 stated:

17 ETHICS COURSE

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

23 Respondent shall submit a certificate of completion to the Board or its
24 designee within five (5) days after completing the course.

25 20. Respondent's probation is subject to revocation because she failed to comply with
26 Probation Condition 27, referenced above, in that Respondent failed to enroll in a course in
27 ethics, approved in advance by the Board or its designee, within sixty calendar days of the
28 effective date of the Decision.

PRAYER

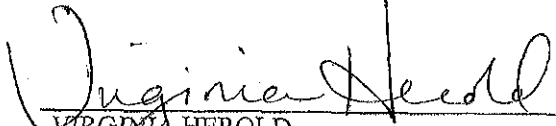
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3868
and imposing the disciplinary order that was stayed thereby revoking Pharmacist License No.
RPH 42690 issued to Lisa F. Davis;

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2. Revoking or suspending Pharmacist License No. RPH 42690, issued to Lisa F. Davis;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/11/13



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

SD2012704361
70659923.doc

Exhibit A

Decision and Order

Board of Pharmacy Case No. 3868

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

In the Matter of the Accusation Against:

LISA F. DAVIS
12857 Frederick Street #207
Moreno Valley, CA 92553

Pharmacist License No. RPH 42690

Respondent.

Case No. 3868

OAH No. 2011031011

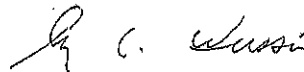
DECISION AND ORDER

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 on April 12, 2012.

It is so ORDERED on March 13, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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Attorney General of California
2 JAMES M. LEDAKIS
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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 Accusation Against:

12 **LISA F. DAVIS**
13 **12857 Frederick Street #207**
14 **Moreno Valley, CA 92553**

15 **Pharmacist License No. RPH 42690**

16 Respondent.

Case No. 3868

OAH No. 2011031011

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

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

25 2. Respondent Lisa F. Davis (Respondent) is represented in this proceeding by attorney
26 Theodore A. Cohen, Esq., whose address is: 4601 Admiralty Way Marina del Rey, CA 90292
27

1 3. On or about August 8, 1989, the Board of Pharmacy issued Pharmacist License No.
2 RPH 42690 to Lisa F. Davis (Respondent). The Pharmacist License was in full force and effect at
3 all times relevant to the charges brought in Accusation No. 3868 and will expire on August 31,
4 2013, unless renewed.

5 JURISDICTION

6 4. Accusation No. 3868 was filed before the Board of Pharmacy (Board), Department of
7 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
8 statutorily required documents were properly served on Respondent on March 3, 2011.
9 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
10 No. 3868 is attached as exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 3868. Respondent has also carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
15 Order.

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

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

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 3868.

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

6 CONTINGENCY

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

16 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
17 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
18 effect as the originals.

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

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

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 42690 issued to Respondent
3 Lisa F. Davis (Respondent) is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for five (5) years on the following terms and conditions.

5 1. **Suspension**

6 As part of probation, Respondent is suspended from the practice of pharmacy for ninety
7 (90) days beginning the effective date of this decision. During suspension, Respondent shall not
8 enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-
9 animal drug retailer or any other distributor of drugs which is licensed by the board, or any
10 manufacturer, or where dangerous drugs and devices or controlled substances are maintained.
11 Respondent shall not practice pharmacy nor do any act involving drug selection, selection of
12 stock, manufacturing, compounding, dispensing or patient consultation, nor shall Respondent
13 manage, administer, or be a consultant to any licensee of the board, or have access to or control
14 the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
15 substances.

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

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

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

24 2. **Obey All Laws**

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

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

- 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 **3. 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 **4. 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 its
24 designee. Failure to appear for any scheduled interview without prior notification to board staff,
25 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
26 the period of probation, shall be considered a violation of probation.

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1 **5. Cooperate with Board Staff**

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

5 **6. 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 **7. Notice to Employers**

9 During the period of probation, respondent shall notify all present and prospective
10 employers of the decision in case number 3868 and the terms, conditions and restrictions imposed
11 on respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 respondent undertaking any new employment, respondent shall cause her direct supervisor,
14 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
15 tenure of employment) and owner to report to the board in writing acknowledging that the listed
16 individual(s) has/have read the decision in case number 3868, and terms and conditions imposed
17 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)
18 submit timely acknowledgment(s) to the board.

19 If respondent works for or is employed by or through a pharmacy employment service,
20 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
21 licensed by the board of the terms and conditions of the decision in case number 3868 in advance
22 of the respondent commencing work at each licensed entity. A record of this notification must be
23 provided to the board upon request.

24 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
25 (15) days of respondent undertaking any new employment by or through a pharmacy employment
26 service, respondent shall cause her direct supervisor with the pharmacy employment service to
27 report to the board in writing acknowledging that she has read the decision in case number 3868
28

1 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
2 that her 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 **8. 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 **9. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, respondent shall pay to the
18 board its costs of investigation (\$3060.00) and prosecution (\$3,162.50) in the total amount of
19 \$6,222.50. Respondent shall be permitted to pay these costs in a payment plan approved by the
20 Board with payments to be completed no later than 3 months prior to the end of the probation
21 term.

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

25 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
26 reimburse the board its costs of investigation and prosecution.

1 **10. Probation Monitoring Costs**

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

6 **11. Status of License**

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

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

14 **12. License Surrender While on Probation/Suspension**

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

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

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

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

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

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

10 **14. Tolling of Probation**

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

15 During any such period of tolling of probation, respondent must nonetheless comply with all
16 terms and conditions of probation.

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

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

25 "Cessation of practice" means any calendar month during which respondent is
26 not practicing as a pharmacist for at least 40 hours, as defined by Business and
27 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
28

1 month during which respondent is practicing as a pharmacist for at least 40 hours as a
2 pharmacist as defined by Business and Professions Code section 4000 et seq.

3 **15. Violation of Probation**

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

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

16 **16. Completion of Probation**

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

19 **17. Mental Health Examination**

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

28 If the evaluator recommends, and the board or its designee directs, respondent shall

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

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

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

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

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

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

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

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

23 If recommended by the evaluating licensed mental health practitioner and approved by the
24 board, respondent shall be suspended from practicing pharmacy until respondent's treating
25 therapist recommends, in writing, stating the basis therefor, that respondent can safely practice
26 pharmacy, and the board or its designee approves said recommendation.

27 During suspension, respondent shall not enter any pharmacy area or any portion of the
28 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of

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

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

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

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

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

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

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

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

27 Probation shall be automatically extended until respondent successfully completes the PRP.
28 Any person terminated from the PRP program shall be automatically suspended by the board.

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

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

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

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

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

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

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

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

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

1 shall be considered a violation of probation.

2 **19. Random Drug Screening**

3 Respondent, at her own expense, shall participate in random testing, including but not
4 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
5 screening program as directed by the board or its designee. Respondent may be required to
6 participate in testing for the entire probation period and the frequency of testing will be
7 determined by the board or its designee. At all times, respondent shall fully cooperate with the
8 board or its designee, and shall, when directed, submit to such tests and samples for the detection
9 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
10 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
11 of probation. Upon request of the board or its designee, respondent shall provide documentation
12 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
13 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
14 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
15 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
16 shall be considered a violation of probation and shall result in the automatic suspension of
17 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
18 notified by 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 any
4 licensed premises in which she holds an interest at the time this decision becomes effective unless
5 otherwise specified in this order.

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

7 **20. Abstain from Drugs and Alcohol Use**

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

19 **21. Prescription Coordination and Monitoring of Prescription Use**

20 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
21 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
22 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
23 history with the use of controlled substances and/or dangerous drugs and who will coordinate and
24 monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-
25 altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation
26 and decision. A record of this notification must be provided to the board upon request.
27 Respondent shall sign a release authorizing the practitioner to communicate with the board about
28 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or

1 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding
2 respondent's compliance with this condition. If any substances considered addictive have been
3 prescribed, the report shall identify a program for the time limited use of any such substances.
4 The board may require that the single coordinating physician, nurse practitioner, physician
5 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
6 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,
7 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,
8 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
9 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit
10 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
11 required reporting thereby on the quarterly reports, shall be considered a violation of probation.
12 If at any time an approved practitioner determines that respondent is unable to practice
13 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
14 telephone and follow up by written letter within three (3) working days. Upon notification from
15 the board or its designee of this determination, respondent shall be automatically suspended and
16 shall not resume practice until notified by the board that practice may be resumed.
17 During suspension, respondent shall not enter any pharmacy area or any portion of the
18 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
19 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
20 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
21 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
22 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
23 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
24 and controlled substances. Respondent shall not resume practice until notified by the board.

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

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

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

5 **22. Community Services Program**

6 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
7 board or its designee, for prior approval, a community service program in which respondent shall
8 provide free health-care related services on a regular basis to a community or charitable facility or
9 agency for at least 150 hours served over 5 years of probation and before probation is terminated.

10 Within thirty (30) days of board approval thereof, respondent shall submit documentation to the
11 board demonstrating commencement of the community service program. A record of this
12 notification must be provided to the board upon request. Respondent shall report on progress
13 with the community service program in the quarterly reports. Failure to timely submit, commence
14 commence, or comply with the program shall be considered a violation of probation.

15 **23. Remedial Education**

16 Within two years of the effective date of this decision, respondent shall submit to the board
17 or its designee, for prior approval, an appropriate program of remedial education related to [the
18 grounds for discipline]. The program of remedial education shall consist of at least 20 hours,
19 which shall be completed within two years at respondent's own expense. All remedial education
20 shall be in addition to, and shall not be credited toward, continuing education (CE) courses used
21 for license renewal purposes.

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

26 Following the completion of each course, the board or its designee may require the
27 respondent, at her own expense, to take an approved examination to test the respondent's
28 knowledge of the course. If the respondent does not achieve a passing score on the examination,

1 this failure shall be considered a violation of probation. Any such examination failure shall
2 require respondent to take another course approved by the board in the same subject area.

3 **24. Supervised Practice**

4 During the period of probation, respondent shall practice only under the supervision of a
5 licensed pharmacist not on probation with the board. Upon and after the effective date of this
6 decision, respondent shall not practice pharmacy and her license shall be automatically suspended
7 until a supervisor is approved by the board or its designee. The supervision shall be, as required
8 by the board or its designee, either:

- 9 ~~Continuous - At least 75% of a work week~~
10 ~~Substantial - At least 50% of a work week~~
11 ~~Partial - At least 25% of a work week~~
12 ~~Daily Review - Supervisor's review of probationer's daily activities within 24 hours~~

13 ~~Within thirty (30) days of the effective date of this decision, respondent shall have her~~
14 supervisor submit notification to the board in writing stating that the supervisor has read the
15 decision in case number 3868 and is familiar with the required level of supervision as determined
16 by the board or its designee. It shall be the respondent's responsibility to ensure that her
17 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
18 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
19 acknowledgements to the board shall be considered a violation of probation.

20 If respondent changes employment, it shall be the respondent's responsibility to ensure that
21 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
22 the board. Respondent shall have her new supervisor, within fifteen (15) days after employment
23 commences, submit notification to the board in writing stating the direct supervisor and
24 pharmacist-in-charge have read the decision in case number 3868 and is familiar with the level of
25 supervision as determined by the board. Respondent shall not practice pharmacy and her license
26 shall be automatically suspended until the board or its designee approves a new supervisor.
27 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
28 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

18 **25. No Ownership of Licensed Premises**

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

26 **26. Separate File of Records**

27 Respondent shall maintain and make available for inspection a separate file of all records
28 pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such

1 file or make it available for inspection shall be considered a violation of probation.

2 27. Ethics Course

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

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

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Theodore A. Cohen, Esq. I understand the stipulation and the
12 effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
14 Decision and Order of the Board of Pharmacy.

15
16 DATED: 10-18-11 Lisa Davis
17 LISA F. DAVIS
Respondent

18 I have read and fully discussed with Respondent Lisa F. Davis the terms and conditions and
19 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
20 form and content.

21
22
23 DATED: 10-18-11 Theodore A. Cohen
24 THEODORE A. COHEN
Attorney for Respondent

25
26
27
28


ENDORSEMENT

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

Dated: October 24, 2011

Respectfully submitted,

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



DESIREE L. KELLOGG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3868

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
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P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against: Case No. 3868

12 **LISA F. DAVIS**
13 12857 Frederick Street, #207
14 Moreno Valley, CA 92553

ACCUSATION

15 **Pharmacist License No. RPH 42690**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about August 8, 1989, the Board of Pharmacy issued Pharmacist License
24 Number RPH 42690 to Lisa F. Davis (Respondent). The Pharmacist License was in full force
25 and effect at all times relevant to the charges brought herein and will expire on August 31, 2011,
26 unless renewed.
- 27
28

JURISDICTION

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

5 4. Section 4300(a) of the Code states that "[e]very license issued may be suspended or
6 revoked."

7 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9 disciplinary action during the period within which the license may be renewed, restored, reissued
10 or reinstated.

STATUTORY AND REGULATORY PROVISIONS

11
12 6. Section 4301 of the Code states:

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

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

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

27 7. Section 4327 of the Code states that:

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

1 COST RECOVERY

2 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 DRUGS

7 9. Vicodin, a brand name for acetaminophen and hydrocodone bitartrate, is a schedule
8 III controlled substance as designated by Health and Safety Code section 11056(e)(4), and is a
9 dangerous drug pursuant to Business and Professions Code section 4022.

10 10. Lorazepam, sold under the brand name Ativan, is a Schedule IV controlled substance
11 as designated by Health and Safety Code section 11057(d)(16), and is a dangerous drug pursuant
12 to Business and Professions Code section 4022.

13 FIRST CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct-Use of a Controlled Substance)

15 11. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
16 she used controlled substances, namely lorazepam and Vicodin, while performing her functions
17 as a pharmacist. The circumstances are as follows.

18 a. Respondent began working as a pharmacist at Vons Pharmacy #2665, located at
19 4520 Sunset Blvd. in Los Angeles, California on January 11, 2000. On October 27, 2009, while
20 performing her duties as a pharmacist at Vons Pharmacy, Respondent was observed as being very
21 drowsy and sleepy with slurred speech. She had difficulty entering her password into the
22 computer and was very slow filling prescriptions, taking an hour to fill one prescription. She
23 dozed off during at least three phone calls and a pharmacy technician had to nudge her awake.
24 She fainted which caused the store management to call paramedics and she was taken to Kaiser
25 Permanente and admitted to that facility.

26 b. While at Kaiser, Respondent underwent a drug screen of her urine and her urine
27 tested positive for the presence of benzodiazepines (lorazepam contains benzodiazepines) and
28 opiates (Vicodin contains opiates). In her January 4, 2010 written statement to the Board which

1 was certified under penalty of perjury, Respondent admitted that she "was working while
2 impaired. The night before I took Lorazepam for my back and the next morning I went to
3 work... Three days prior to the test, I took a Vicodin."

4 SECOND CAUSE FOR DISCIPLINE

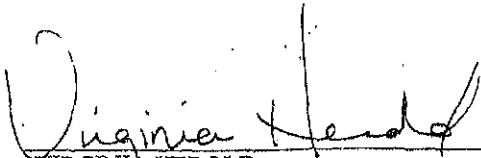
5 (Unprofessional Conduct-Violations of the Chapter)

6 12. Respondent is subject to disciplinary action for unprofessional conduct under section
7 4301(o) of the Code in that she violated the Pharmacy Act by working as a pharmacist while
8 under the influence of controlled substances in violation of Code section 4327, as evidenced by
9 her admissions and her conduct as set forth in paragraph 11 above, incorporated herein by
10 reference.

11 PRAYER

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

- 14 1. Revoking or suspending Pharmacist License Number RPH 42690, issued to Lisa F.
15 Davis;
- 16 2. Ordering Lisa F. Davis to pay the Board of Pharmacy the reasonable costs of the
17 investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21
22 DATED: 7/25/11 
23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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