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

12 In the Matter of the Accusation Against:

Case No. 4725

13 **ROBERT ANTHONY GOVERNSKI**
14 P.O. Box 501
Telluride, CO 81435

A C C U S A T I O N

15 **Pharmacist License No. RPH 47933**

16 Respondent.

17
18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about April 14, 1995, the Board of Pharmacy issued Pharmacist License
23 Number RPH 47933 to Robert Anthony Governski ("Respondent"). The Pharmacist License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 February 28, 2015, unless renewed.

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1 **JURISDICTION**

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. Code section 4300 states, in pertinent part, that every license issued may be suspended
6 or revoked.

7 5. Code section 4300.1 states:

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

13 6. Code section 4301 of the Code states, in pertinent part, that the board shall take action
14 against any holder of a license who is guilty of unprofessional conduct. Unprofessional conduct
15 shall include, but is not limited to, any of the following:

16 ...

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

19 ...

20 **COST RECOVERY**

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

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1 **CAUSE FOR DISCIPLINE**

2 **(Discipline by State of Colorado)**

3 8. Respondent is subject to discipline under Code section 4301, subdivision (n), in that
4 Respondent's license was disciplined by the State of Colorado. The circumstances are as follows:

5 a. On or about December 16, 2009, by Stipulation and Final Agency Order (Case
6 No. 2010-000241), Respondent's Colorado Pharmacist License was disciplined for failing to
7 comply with the Board's Peer Health Assistance Diversion Program which Respondent had
8 previously entered on March 11, 2009. Respondent had been placed in the Peer Health Assistance
9 Diversion Program for his convictions for driving while impaired in 1992, 1999, and 2008. The
10 Stipulation and Final Agency Order (Case No. 2010-000241) placed Respondent's Colorado
11 Pharmacist License on five years probation, with terms and conditions including becoming
12 compliant with his contract with the Board's Peer Health Assistance Diversion Program. A true
13 and correct copy of the Stipulation and Final Agency Order (Case No. 2010-000241) is attached
14 as Exhibit A and incorporated herein.

15 b. Effective June 8, 2011, by Stipulation and Final Agency Order (Case No. 2011-
16 1334), Respondent's Colorado Pharmacist License was suspended. The suspension resulted from
17 Respondent's repeated noncompliance with the terms of the Colorado Final Agency Order (Case
18 No. 2010-000241), dated December 16, 2009. The suspension is effective until Respondent enters
19 another rehabilitation program, remains in compliance, and is released to practice by the recovery
20 program. A true and correct copy of the Stipulation and Final Agency Order (Case No. 2011-
21 1334) is attached as Exhibit B and incorporated herein.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacist License Number RPH 47933, issued to Robert
26 Anthony Governski.;

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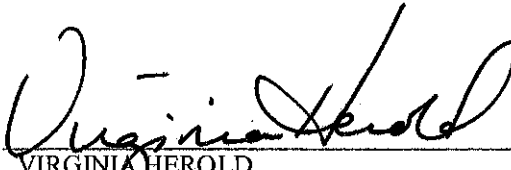
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2. Ordering Robert Anthony Governski to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED:

10/11/13



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

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Exhibit A

Stipulation and Final Agency Order (Case No. 2010-000241)

BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

CASE NO. 2010-000241

STIPULATION FOR INTERIM CESSATION OF PRACTICE

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO PRACTICE AS A PHARMACIST IN THE STATE OF COLORADO OF ROBERT A. GOVERNSKI, RPH, LICENSE NO. PHA-14225,

RESPONDENT.

IT IS HEREBY STIPULATED and agreed by and between the State Board of Pharmacy ("Board") and Robert A. Goverski, RPH ("Respondent") as follows:

1. Respondent was licensed to practice as a pharmacist in the State of Colorado on October 31, 1994, and has been licensed as a pharmacist at all times relevant to this case.
2. The Board has jurisdiction over the person of Respondent and the subject matter of this proceeding.
3. On June 25, 2010, the Board reviewed case number 2010-000241 and subsequently concluded that Respondent may not be able to practice as a pharmacist with reasonable skill and safety to patients.
4. The parties agree that disciplinary proceedings are stayed until the Board determines what additional information is needed and what additional action, if any, is warranted.
5. Respondent agrees that he will not engage in the practice of pharmacy in the State of Colorado as defined in CRS §12-22-102(26) while this Stipulation is in effect.
6. This Stipulation shall remain in effect until such time as Respondent complies with all requests from the Pharmacy Peer Health Assistance Diversion Program and the Board allows Respondent to return to the practice of pharmacy.
7. The Board agrees to make a final determination as to what action it will take against Respondent's license during the ordinary course of business at a regularly scheduled meeting after such time as Respondent has complied with all requests from the Pharmacy Peer Health Assistance Diversion Program and the Board has allowed Respondent to return to the practice of pharmacy.
8. The Board agrees that it will not institute summary suspension or other disciplinary proceedings during the time this Stipulation is in effect, so long as Respondent remains in compliance with this Stipulation and so long as the Board does not learn of substantially new

information that would indicate that summary suspension or other disciplinary action is immediately warranted.

9. All expenses incurred in fulfilling the terms of this Stipulation shall be borne by Respondent.
10. Nothing in this Stipulation shall constitute disciplinary action or a finding that Respondent has engaged in substandard practice. The Board has made no final determinations regarding Respondent's professional competency or professional conduct. Nothing in this Stipulation shall constitute a "final action" as defined in §24-4-102(1), C.R.S.
11. Nothing in this Stipulation shall preclude the Board from initiating disciplinary action pursuant to §12-22-125, C.R.S. or from issuing a Final Agency Order even while this Stipulation is in effect. If Respondent is deemed safe and capable of practicing as a pharmacist without harm to the public by an approved evaluator, the Board may still pursue disciplinary proceedings for the alleged violations of the Pharmaceuticals and Pharmacists Act and Board rules in the present case.
12. This Stipulation and all its terms and conditions constitute a valid Board order for purposes of §§12-22-125(1)(m) and 12-22-125.2(4), C.R.S. Respondent acknowledges and agrees that any violation of this Stipulation shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under §12-22-125.2(4), C.R.S. and may be sufficient grounds for additional discipline, including but not limited to revocation of his pharmacy license.
13. Both parties acknowledge that they understand the legal consequences of this Stipulation. Both parties enter into this Stipulation voluntarily, and agree that no term or condition of this Stipulation is unconscionable.
14. Respondent understands that he has the right to be represented by counsel of his choice in this matter.
15. Invalidation of any portion of this Stipulation by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect.
16. This Stipulation shall become effective when accepted and signed on behalf of the Board.
17. This Stipulation shall constitute a public record at all times in the custody of the Board.

ACCEPTED AND AGREED BY:

Respondent


Robert A. Governski

Subscribed and sworn to before me in the County of SAN MIGUEL State of Colorado, this 29th day of JUNE 2010, by Robert A. Governski, RPH.

Elizabeth R Carr

Notary Public
ELIZABETH R CARR
Notary Public
State of Colorado

My Commission expires: _____

My Commission Expires May 24, 2014

DONE AND EFFECTIVE this ~~30th~~ day of June 2010.

State Board of Pharmacy

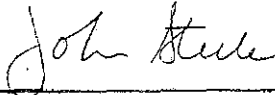
BY: *Wendy Anderson*
WENDY ANDERSON
Program Director

CERTIFICATE OF MAILING

This is to certify that I have mailed the within **STIPULATION FOR INTERIM CESSATION OF PRACTICE** upon all parties herein by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this 25th day of June 2010, addressed as follows:

Robert A. Governski, RPH
P.O. Box 501
Telluride, CO 81435
(Via Email: bobbygski@hotmail.com)

Raul N. Rodriguez, Esq.
(Via Email: raulnr@msn.com)

/s/ 

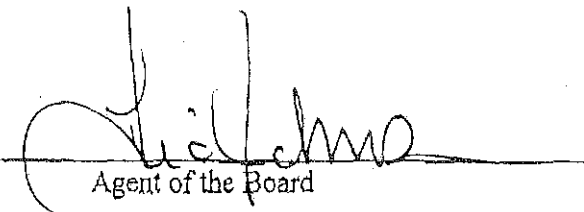
John C. Steele

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **STIPULATION FOR INTERIM CESSATION OF PRACTICE** upon all parties herein by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this 30th day of June, 2010, addressed as follows:

Robert A. Governski, RPH
P.O. Box 501
Telluride, CO 81435

Raul N. Rodriguez, Esq.
1011 Pennsylvania St., Unit B
Denver, CO 80203


Agent of the Board

BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

Case No. 2010-000241

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO PRACTICE PHARMACY IN THE STATE OF COLORADO OF ROBERT A. GOVERNSKI, RPH, LICENSE NO. PHA-14225,

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Pharmacy ("Board") and Robert A. Governski, RPH ("Respondent") to resolve all matters pertaining to Board Case Number 2010-000241, as follows:

FINDINGS AND CONCLUSIONS

1. The Board has jurisdiction over Respondent, his license to practice pharmacy, and the subject matter of this Stipulation and Final Agency Order ("Final Agency Order") pursuant to the provisions of the Pharmaceuticals and Pharmacists Act at Title 12, Article 22, C.R.S.
2. Respondent was originally licensed to practice as a pharmacist in the State of Colorado on October 31, 1994, being issued license number PHA-14225, and has been so licensed at all times relevant to this disciplinary action.
3. Respondent admits these findings and hereby waives any further proof in this proceeding before the Board regarding the following facts.
4. Respondent pled guilty to separate DWAI convictions in 1992, 1999, and 2008.
5. Respondent was accepted into the Diversion Program of Peer Assistance Services on March 11, 2009, but failed to comply with the terms of the Rehabilitation Contract. He was therefore reported to the Board by name on July 8, 2009.
6. Respondent's conduct, as set forth above, constitutes violations of the following sections of the Colorado Revised Statutes and Board Rules:

Colorado Revised Statutes

12-22-125. Unprofessional conduct - grounds for discipline.

(1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

(c) Has violated:

(I) Any of the provisions of this part 1, including but not limited to any acts in section 12-22-126;

(II) The lawful rules of the board; or

(III) Any state or federal law pertaining to drugs;

(d) Is unfit or incompetent by reason of negligence, habits, or physical or mental illness, or for any other cause, to practice as such; and

(e) Is addicted to, dependent on, or engages in the habitual or excessive use or abuse of intoxicating liquors, a habit-forming drug, or a controlled substance, as defined in section 18-18-102 (5), C.R.S.

Pharmacy Board Rules and Regulations

1.00.21 Violation of Board Orders or Negotiated Stipulations, or Diversion Program Contracts. It shall be considered unprofessional conduct for a Colorado-licensed pharmacist or intern to violate a lawful Board order or negotiated stipulation issued in result of a formal complaint against the licensee or to violate a peer health assistance diversion program contract entered into pursuant to Rules 18.02.11 and 18.02.18.

7. The Board finds and concludes, and Respondent agrees, that based upon Respondent's above-described violations of the Pharmaceuticals and Pharmacists Act and relevant rules and regulations, the following discipline is just and appropriate under the circumstances.

DISPOSITION

5 Years Probation / Peer Assistance Services / Restricted Practice / Examination Requirements / Reporting Requirements

8. **Probation.** Respondent's license shall be placed on probation for a period of five (5) years. Credit toward satisfying the period of probation shall be given only during such periods of time that Respondent is in total compliance with all provisions of this Final Agency Order.

The prescribed period of probation shall not run during any period of time where:

- a. Respondent is not employed a minimum of eighty (80) hours per month, engaged in the practice of pharmacy in the State of Colorado;
- b. Respondent is not actively participating in a Board approved Peer Health Assistance Diversion Program as set forth below in paragraph 9 of this Final Agency Order; and
- c. Respondent is not otherwise in full compliance with the terms of this Final Agency Order.

9. **Mandatory Participation and Satisfactory Completion of a Board-Approved Peer Health Assistance Diversion Program.**

- a. **Contract.** As a term of this Final Agency Order and Respondent's probationary status, Respondent shall forthwith enter into, and as a condition of his release from probation successfully complete, a contract with Peer Assistance Services ("PAS") or an alternative treatment program approved by the Board.
- b. **Urine/Blood Screens.** Respondent shall submit to full panel urine or blood tests during participation in the PAS or Board-approved alternative program contract, as ordered by the Board, Respondent's employer, or Respondent's treatment program monitor, at a frequency determined by the Rehabilitation Evaluation Committee ("REC"). All screens or tests shall be administered and monitored by approved program personnel. A missed urine screen or blood test shall be presumed positive for prohibited substances. Use or ingestion of poppy seeds or hemp oil shall not excuse a positive urine screen or blood test. Respondent must submit satisfactory verified test results for all random urine screening or blood testing conducted as part of Respondent's treatment program with Respondent's application for discharge of the probation period.
- c. **Other Requirements.** Respondent shall comply fully and in a timely manner with all requirements, recommendations and directions of the treatment program, as

administered by PAS or Board-approved alternative treatment program, and the REC. Requirements, recommendations, and directions may include:

- i. Submission by Respondent to such examinations as the REC may deem appropriate to determine Respondent's physical or mental condition or Respondent's professional qualifications, (the parameters of any such examination shall be specified to the extent possible to pinpoint the underlying condition for which the examination is being required);
 - ii. The taking by Respondent of such therapy courses of training or education as may be needed to correct deficiencies found by such examination;
 - iii. The review or supervision of Respondent's pharmacy practice as may be necessary to determine the quality of Respondent's practice and to correct deficiencies therein; and
 - iv. The imposition of restrictions upon the nature of Respondent's practice to assure that Respondent does not practice beyond the limits of his capabilities.
 - d. Releases. Respondent hereby waives any right or claim of confidentiality to any information, test results or other data pertaining to Respondent's treatment progress, or lack thereof, with PAS and/or the Board-approved alternative treatment program, and will execute a Release authorizing PAS or the Board-approved alternative treatment program to release any and all information pertaining to Respondent's case to the Board upon its request. Respondent shall keep all releases current and in effect.
 - e. Completion of Program. If Respondent satisfactorily completes the treatment program, verification to the Board, by PAS or the Board-approved alternative treatment program, of the satisfactory completion of treatment shall be deemed sufficient, and the requirements set out herein shall be deemed satisfied, unless other information is reasonably required by the Board to verify Respondent's satisfactory completion of treatment. **It is Respondent's responsibility to ensure that PAS or the Board-approved alternative treatment program submits verification to the Board of satisfactory completion of treatment.**
 - f. Withdrawal from Program. Respondent must immediately notify the Board in writing if Respondent withdraws from, is removed from, is terminated from, or otherwise fails to participate fully and satisfactorily in Respondent's treatment program.
10. Restricted Practice. Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, Respondent shall

not, at any Colorado outlet, serve as (a) manager, (b) supervisor, (c) consultant pharmacist, or (d) preceptor.

11. **MPJE Examination.** Within six (6) months of the effective date of this Final Agency Order, Respondent shall take and pass the Board's jurisprudence examination. Failure to take and pass such exam within the prescribed time shall be sufficient evidence for the Board to conclude that Respondent is not qualified to practice pharmacy.

12. **Continuing Education Ethics Course.** Within one (1) year of the effective date of this Final Agency Order, Respondent shall take and pass the Professional and Problem Based Ethics ("ProBE") Course. Information and enrollment procedures for the ProBE Course appear on-line at www.cpepdoc.org/probe.html. Respondent shall send the Board proof of completion of the ProBE Course within ten (10) days of successful completion of the course.

13. **Required Notices.** Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, within three (3) days of commencing or changing location of any employment requiring a pharmacist license, Respondent shall notify the Board, using the form provided by the Board, of:
 - a. the name and address of each place where Respondent is employed or engaged as a pharmacist; and
 - b. the name, address and license number of each pharmacist manager and immediate supervisor at the new location.

Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or assigned to that location by a district office, employment placement agency, or any other entity by whom Respondent is employed.

14. **Required Disclosures.** Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, prior to accepting employment or changing location of any employment which requires a pharmacist license, Respondent shall provide a complete copy of this Final Agency Order, consisting of ten (10) pages, to each pharmacist manager and immediate supervisor at each location at which Respondent intends to practice pharmacy during the five-year probation period. **Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or assigned to that location by a district office,**

employment placement agency, or any other entity by whom Respondent is employed.

15. **Manager/Supervisor Reports.** Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, within thirty (30) days after Respondent accepts employment or changes location of any employment as a pharmacist in the state of Colorado, each pharmacist manager and immediate supervisor shall submit a written report using the forms provided by the Board, setting forth:
- a. The name and address of the employer of Respondent and the name of the pharmacist manager and immediate supervisor;
 - b. The duties and responsibilities to be carried out by Respondent;
 - c. An acknowledgment from Respondent's pharmacist manager and immediate supervisor that he or she has received a complete copy of this Final Agency Order, consisting of ten (10) pages, and that he or she has read and understands its contents, including the nature of the misconduct which forms the basis of this disciplinary action; and
 - d. An affirmative statement that the pharmacist manager and immediate supervisor agree to notify the Board, in writing, within seventy-two (72) hours of any evidence of a subsequent violation by Respondent of a violation of this Final Agency Order, or of the Colorado Pharmacists and Pharmaceuticals Act, or Board rules and regulations governing the practice of pharmacy.
 - e. If there is a change in management and/or supervision of Respondent where Respondent is employed in the practice of pharmacy, Respondent agrees to provide a complete copy of this Final Agency Order to Respondent's new manager and/or supervisor, immediately upon that new manager or supervisor assuming his or her duties. Within thirty (30) days of receipt of the Final Agency Order, the new manager or supervisor shall report said receipt to the Board as well as fulfill requirements of paragraphs a through d as indicated above.

It is the responsibility of Respondent to ensure complete compliance with the above-described provisions of the preceding paragraphs a through e. Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or assigned to that location by a district office, employment placement agency, or any other entity by whom Respondent is employed.

16. **Quarterly Status Reports.** Upon the commencement of the probationary period required under this Final Agency Order and during the entire probationary period,

Respondent shall submit to the Board written quarterly status reports on the forms provided by the Board which shall be due on the 15th day of the months of January, April, July and October, which provide the following information for each location where Respondent is employed:

- a. Employer and pharmacy outlet name, address and outlet registration number;
- b. Name and license number of each pharmacist manager and immediate supervisor; and
- c. A log of the number of hours, on a weekly basis, Respondent worked at each pharmacy outlet during the applicable quarter. The pharmacist manager shall certify the correctness of the accounting. A separate report for each location shall be submitted. All reports shall be submitted using the form provided by the Board.

All quarterly reports are to be sent to the Board in a timely manner even if Respondent is not currently practicing pharmacy. The first report is due on the first due date even if Respondent has not been on probation for a full quarter. Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or assigned to that location by a district office, employment placement agency, or any other entity by whom Respondent is employed.

17. **Other Requirements.** Respondent acknowledges and agrees that, as a condition of this Final Agency Order and probation, Respondent shall:
 - a. promptly pay all Respondent's own fees and costs associated with this Final Agency Order;
 - b. comply fully with this Final Agency Order; and
 - c. comply fully with the Pharmacists and Pharmaceuticals Act, all Board rules and regulations, and any other state and federal laws and regulations related to pharmacists and pharmaceuticals in the State of Colorado.
18. **Discharge.** Discharge from the requirements of this Final Agency Order must be requested in writing by Respondent. The Board will consider any request for discharge during the ordinary course of business. In any request for discharge it shall be Respondent's sole responsibility to establish, through written and other documentation, that Respondent has met all terms and conditions of this Final Agency Order. Respondent's probation shall continue until formally discharged by the Board by way of Board order.

19. **Advisements and Waivers.** Respondent enters into this Final Agency Order freely and voluntarily, whether or not Respondent has consulted with legal counsel. Respondent acknowledges his understanding that he has the following rights:
- a. to have formal notice of hearing and charges served upon him;
 - b. to respond to said formal notice of charges;
 - c. to have a formal disciplinary hearing pursuant to Sections 12-22-125 and 12-22-125.2(2)(a), C.R.S.; and
 - d. to appeal this Final Agency Order.
- Respondent freely **waives** these rights, and acknowledges that such waiver is made voluntarily in consideration for the Board's limiting the action taken against Respondent to the sanctions imposed herein.
20. **Acknowledgments.** Respondent has read this Final Agency Order in its entirety and acknowledges, whether or not Respondent has consulted with legal counsel, that Respondent understands its legal consequences and agrees that none of its terms or conditions are unconscionable. Respondent is not relying on any statements, promises or representations from the Board other than as may be contained in this Final Agency Order. Respondent further acknowledges that he is not entering into this Final Agency Order under any duress.
21. **Violations.** Time is of the essence in this Final Agency Order. It is the responsibility of Respondent to take all appropriate steps to comply fully with this Final Agency Order. Respondent acknowledges and agrees that any violation of this Final Agency Order shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under §12-22-125.2(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of Respondent's license. The pendency of any suspension or disciplinary action arising out of an alleged violation of this Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Final Agency Order.
22. **Integration and Severability.** Upon execution by all parties, this Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Final Agency Order shall be given full force and effect.
23. **Public Record.** Upon execution by all parties, this Final Agency Order shall be a public record, maintained in the custody of the Board.

24. Effective Date. This Final Agency Order shall become effective upon signature by a Board representative.

ACCEPTED AND AGREED BY

Respondent

Robert A. Governski RPH
Robert A. Governski, RPH

Dated: 12-14-2009

Subscribed and sworn to before me in the County of San Miguel, State of Colorado, this 14th day of December, 2009 by Robert A. Governski, RPH.



Kelly Romaine
Notary Public

My commission expires: 6 10 2010

FINAL AGENCY ORDER

WHEREFORE, the within Stipulation and Final Agency Order is approved, accepted, and hereby made an Order of the Board.

Done and effective this 16th day of December, 2009.

State Board of Pharmacy

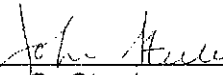
BY: Wendy Anderson
Wendy Anderson
Program Director

CERTIFICATE OF MAILING

This is to certify that I have duly mailed the within **STIPULATION AND FINAL AGENCY ORDER** upon all parties herein by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this 1st day of September 2009, addressed as follows:

Robert A. Governski, RPH

Raul N. Rodriquez, Esq.
Rodriquez & Associates
1011 Pennsylvania St., Unit B
Denver, CO 80203



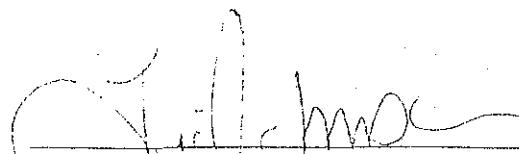
John C. Steele

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **STIPULATION AND FINAL AGENCY ORDER** upon all parties herein by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this 16th day of December 2009, addressed as follows:

Robert A. Governski, RPH

Raul N. Rodriquez, Esq.
Rodriquez & Associates
1011 Pennsylvania St., Unit B
Denver, CO 80203



Agent of the Board

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Exhibit B
Stipulation and Final Agency Order (Case No. 2011-1334)

**BEFORE THE STATE BOARD OF PHARMACY
STATE OF COLORADO**

Case No. 2011-1334

**ORDER PURSUANT TO FINAL AGENCY ORDER OF DECEMBER 16, 2009 AND
SECTION 12-22-605(3), C.R.S.**

**IN THE MATTER OF BOARD PROCEEDINGS REGARDING THE LICENSE TO
PRACTICE PHARMACY IN THE STATE OF COLORADO OF ROBERT A. GOVERNSKI,
R.PH., LICENSE NO. 14225,**

Respondent.

TO: Robert A. Governski, R.Ph.

THIS MATTER having been reviewed by the Colorado State Board of Pharmacy ("Board") during a meeting on October 21, 2010, the Board states that:

1. Robert A. Governski, hereinafter "Respondent," was licensed as a pharmacist in the State of Colorado, having been issued license #14225 on or about October 31, 1994, and has been so licensed at all times relevant hereto.
2. The Board has jurisdiction over Respondent, his license to practice pharmacy, and the subject matter of this proceeding and the Notice of Charges pursuant to the provisions of §§12-22-101, *et seq.*, C.R.S., otherwise known as the Pharmaceuticals and Pharmacists Act.
3. On December 16, 2009, Respondent entered into a probationary Stipulation and Final Agency Order with the Board ("2009 FAO"), which placed Respondent on a five-year probation.
4. The 2009 FAO directed Respondent to immediately enter into, and as a condition of his release from probation successfully complete, a contract with the Board's Pharmacy Peer Health Assistance Diversion Program ("Diversion Program") or alternative treatment program approved by the Board.
5. In the 2009 FAO, Respondent was ordered to submit to full panel urine or blood tests during his participation in the Diversion Program, and to "submit satisfactory verified test results for all random urine screening or blood testing conducted as part of Respondent's treatment program..."

6. On or around May 12, 2010, as a result of numerous dilute and/or missed urines screens, the Diversion Program directed Respondent to complete a three-and-one-half day multidisciplinary residential comprehensive diagnostic assessment at the Center for Dependency, Addiction and Rehabilitation at the University of Colorado's Hospital Anschutz Medical Campus ("CeDAR Evaluation").
7. Respondent obtained the CeDAR Evaluation on May 25 through 28, 2010 through an assessment team of four evaluators.
8. The report generated as a result of the CeDAR Evaluation ("CeDAR Evaluation Report") dated June 11, 2010 recommended that Respondent enter a ninety-day inpatient residential treatment program for "opioid dependence issues" and thereafter the he should participate in "continuing care." The CeDAR Evaluation Report further indicated that "[t]he assessment team's recommendation is that [Respondent] does not return to employment until all recommendations are followed and he is cleared by treatment of choice..."
9. In a letter dated June 11, 2010 from the Diversion Program Treatment Provider to Board staff, Respondent's Diversion Program Treatment Provider stated: "Based on the results of the multidisciplinary residential comprehensive assessment completed by CeDAR, I cannot assure the Board the [Respondent] is able to practice pharmacy with reasonable skill and safety." Respondent's Diversion Program Treatment Provider recommended the following based on the CeDAR Evaluation:
 - a. The issuance of an Interim Cessation of Practice Stipulation.
 - b. Follow treatment recommendations provided by CeDAR (i.e. 90-day inpatient residential treatment program for opioid dependence issues and continuing care upon completion).
 - c. After completion of 90-day treatment program, enter and complete a 6-to-8 week intensive outpatient program followed by 52 weeks of continuing care.
 - d. Individual therapy.
 - e. Not to return to practice until all recommendations are followed and Respondent is cleared to return to practice by the Diversion Program, the REC, and/or the Board.
10. On or around June 14, 2010, Respondent's Diversion Program Treatment Provider hard-copy mailed and e-mailed copies of a "Notice of Modification to Colorado Pharmacy Peer Health Assistance Program Contract," which set forth amendments to Respondent's Diversion Program Contract ("Contract Addendum"), as set forth in b through e of the above paragraph, to Respondent and his attorney. In the June 14, 2010 mailings, the Diversion Program Treatment Provider notified Respondent that he was required to do the following:
 - a. respond by signing the Contract Addendum and returning it to her no later than June 17, 2010;

- b. select from one of three 90-day residential treatment program providers listed in the letter and contact the Diversion Program Treatment Provider within twenty-four hours of his scheduled admission into one of them;
 - c. participate in individual therapy;
 - d. execute a consent for release of information and directed to return it 5 days prior to Respondent's admission for treatment; and
 - e. sign a "Voluntary Cease Practice" form and return it upon receipt.
11. As of June 21, 2010, Respondent had not:
- a. signed and returned the Contract Addendum to the Diversion Program Treatment Provider;
 - b. contacted the Diversion Program Treatment Provider to notify her of his admission into a 90-day treatment program;
 - c. signed and returned the consent for release of information form;
 - d. signed and returned the Voluntary Cease Practice form.
12. On June 22, 2010, the Board reviewed Respondent's case and voted to order Respondent to comply with the directives set forth in the June 14, 2010 mailings. The Board specifically ordered Respondent to do the following:
- a. enroll in one of the 90-day inpatient residential treatment programs listed in the June 14, 2010 mailings by the close of business on June 25, 2010, and thereafter to remain compliant with all requirements of the program until its completion;
 - b. enter and complete a 6-to-8 week intensive outpatient program ("IOP") followed by 52 weeks of continuing care after completion of the 90-day residential treatment program;
 - c. attend individual psychotherapy sessions with a Diversion Program-approved treatment provider (frequency to be determined upon completion of IOP);
 - d. not to return to practice until all recommendations are followed and Respondent is cleared to return to practice by the Diversion Program, the REC, and/or the Board;
 - e. appear for all appointments with the Diversion Program, to provide any information requested by the Diversion Program, to schedule timely appointments as requested or recommended by the Diversion Program, and to otherwise cooperate fully with the Diversion Program,

including promptly scheduling and completing any other assessments that the Diversion Program may require; and

- f. to continue thereafter to fully cooperate with the Diversion Program in a timely manner and to comply with any and all requests or recommendations the Diversion Program deems appropriate to facilitate any and all examinations necessary to determine if Respondent is able to practice pharmacy with reasonable skill and safety because of a condition or conditions described in §§12-22-125(1)(d) and/or (e), C.R.S.
13. As of the close of business on June 25, 2010, Respondent had not enrolled in one of the 90-day inpatient residential treatment programs listed in the June 14, 2010 mailings.
14. On June 25, 2010, the Board determined that Respondent might not be safe to practice and voted to summarily suspend Respondent's license in the event he did not voluntarily enter into an Interim Cessation of Practice agreement by the close of business on June 29, 2010.
15. Respondent entered a Stipulation for Interim Cessation of Practice ("Interim Stipulation") on or around June 30, 2010.
16. Respondent subsequently remained noncompliant with his Diversion Program Contract and as a result was terminated from the Diversion Program for noncompliance on September 23, 2010.
17. The Interim Stipulation does not relieve Respondent of his duties to otherwise remain in complete compliance with the 2009 FAO and his Diversion Program Contract. The Interim Stipulation specifically states the following in paragraph 12:

Respondent acknowledges and agrees that any violation of this Stipulation shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under §12-22-125.2(4), C.R.S. and may be sufficient grounds for additional discipline, including but not limited to revocation of his pharmacy license.

18. On October 21, 2010, the Board reviewed Respondent's case and determined that Respondent's noncompliance with his Diversion Program Contract, and subsequent termination from the Diversion Program, are in violation of the 2009 FAO and subsequent Board orders, notwithstanding Respondent's agreement to cease practicing pharmacy under the Interim Stipulation. Thus, the Board voted to order Respondent back into the Diversion Program in order to avoid further disciplinary proceedings against Respondent's license as a result of said violations.

ORDER

WHEREFORE, the Board hereby ORDERS Respondent to obtain an evaluation pursuant to the 2009 FAO, and §12-22-605(3), C.R.S., re-enter into a contract with the Diversion Program, and thereafter remain in complete compliance with that contract.

IN ORDER to avoid summary suspension of Respondent's license pursuant to the 2009 FAO, the Interim Stipulation and/or §12-22-605(3), C.R.S. and comply with this Order, Respondent must do the following:

1. Respondent is ORDERED to forthwith contact the Diversion Program and schedule an appointment. Such appointment shall occur within forty-five (45) days of the issuance of this Order.
2. Respondent is further ORDERED to appear for all appointments with the Diversion Program, to provide any information requested by the Diversion Program, to schedule timely appointments as requested or recommended by the Diversion Program, and to otherwise cooperate fully with the Diversion Program, including promptly scheduling and completing any other assessments that the Diversion Program may require.
3. Respondent is further ORDERED to continue thereafter to fully cooperate with the Diversion Program in a timely manner and to comply fully with any and all requests or recommendations the Diversion Program deems appropriate, including entering into a contract with the Diversion Program and complying fully with that contract.

FAILURE TO COMPLY WITH, AND/OR VIOLATION OF, ANY OF THE ABOVE ITEMS 1 THROUGH 3 IN THIS ORDER SHALL BE CONSIDERED VIOLATION OF LAWFUL BOARD ORDERS, SUBJECTING RESPONDENT'S PHARMACIST LICENSE TO SUSPENSION PURSUANT TO §12-22-125.2(4), C.R.S., AND/OR §12-22-605(3), C.R.S. AS SET FORTH ABOVE.

EXCEPT AS SPECIFICALLY STATED HEREIN, ALL TERMS AND CONDITIONS OF RESPONDENT'S 2009 FAO AND PROBATION REMAIN IN FULL FORCE AND EFFECT.

DONE AND EFFECTIVE this 29th day of October 2010.

State Board of Pharmacy

BY: Wendy L. Anderson
WENDY L. ANDERSON
Program Director

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **ORDER PURSUANT TO FINAL AGENCY ORDER OF DECEMBER 16, 2009 AND SECTION 12-22-605(3), C.R.S.** upon all parties herein by depositing copies of same in the United States mail, postage prepaid, at Denver, Colorado this 28th day of October 2010, addressed as follows:

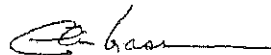
Robert A. Governski, R.Ph.
PO Box 501
Telluride, CO 81435

Raul N. Rodriguez, Esq.
1011 Pennsylvania St, Unit B
Denver, CO 80203

Rebecca Heck
Alternative Program Manager
Peer Assistance Services, Inc.
2170 South Parker Road, #229
Denver, Colorado 80231

and via interagency mail to:

Joanna Lee Kaye
Assistant Attorney General



BEFORE THE STATE BOARD OF PHARMACY
STATE OF COLORADO

OFFICE OF THE
ATTORNEY GENERAL

CASE NO. 2011-1334

2011 JUN -7 PM 3:02

STIPULATION AND FINAL AGENCY ORDER

RECEIVED

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE
TO PRACTICE AS A PHARMACIST IN THE STATE OF COLORADO OF ROBERT A.
GOVERNSKI, RPH, LICENSE NO. PHA-14225,

RESPONDENT.

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board
of Pharmacy ("Board") and Robert A. Governski, RPH ("Respondent") to resolve all matters
pertaining to Board Case Number 2011-1334, as follows:

1. Respondent was licensed to practice as a pharmacist in the State of Colorado on October 31, 1994, and has been licensed as a pharmacist at all times relevant to this case.
2. The Board has jurisdiction over the person of Respondent and the subject matter of this proceeding.
3. Respondent hereby admits that the following facts are true and waives any further proof of said facts in this or any other proceeding before or initiated by the Board.
4. Effective December 16, 2009, Respondent entered into a Stipulation and Final Agency Order with the Board ("2009 FAO") in which Respondent was ordered to become compliant with his contract with the Board's Peer Health Assistance Diversion Program ("PAS") which Respondent had previously entered on March 11, 2009 ("PAS Contract").
5. On June 22, 2010, the Board reviewed reports from PAS that as of June 21, 2010, Respondent had been repeatedly out of compliance with his PAS Contract and therefore with the 2009 FAO. The Board subsequently entered an Order in Board case number 2010-0241, ordering Respondent to come into compliance with the following directives in order to avoid summary suspension of his pharmacist license:
 - a. to enroll in a 90-day inpatient residential treatment program by the close of business on June 25, 2010, and to thereafter remain compliant with all requirements of the program until its completion;
 - b. to enter and complete a 6-to-8 week intensive outpatient program ("IOP") followed by 52 weeks of continuing care after the completion of the 90-day residential treatment program;

- c. to attend individual psychotherapy sessions with an approved PAS provider (frequency to be determined upon completion of IOP);
 - d. not to return to practice until all recommendations are followed and Respondent is cleared to return to practice by PAS, the REC, and/or the Board;
 - e. to appear for all appointments with the Diversion Program, to provide any information requested by the Diversion Program, to schedule any appointments as requested or recommended by the Diversion Program, and to otherwise cooperate fully including promptly scheduling and completing any other assessments deemed necessary; and
 - f. to thereafter fully cooperate with the Diversion Program in a timely manner and to comply fully with any and all requests or recommendations the Diversion Program deems appropriate to facilitate any and all examinations necessary to determine if Respondent is able to practice pharmacy with reasonable skill and safety.
6. As of the close of business on June 25, 2010, Respondent had not enrolled in a 90-day inpatient residential treatment program as required by the Board's June 22, 2010 Order. The Board ordered Respondent summarily suspended if he did not agree to voluntarily cease practice within one week.
 7. Respondent entered into a voluntary Interim Stipulation for Cessation of Practice on June 30, 2010.
 8. Respondent subsequently remained noncompliant with his PAS Contract and as a result was terminated from the Diversion Program for noncompliance on September 30, 2010.
 9. On October 21, 2010, the Board again reviewed Respondent's case and determined that Respondent's noncompliance with his PAS Contract and subsequent termination from the Diversion Program were violations of the 2009 FAO and subsequent Board orders, and voted to order Respondent back into the Diversion Program or else face further disciplinary actions against his pharmacist license.
 10. On October 28, 2010, the Board entered its Order Pursuant to Final Agency Order of December 16, 2009 and Section 12-22-605(3), C.R.S. in which Respondent was ordered to obtain an evaluation, re-enter a PAS Contract, and thereafter remain in compliance with that Contract.
 11. Respondent entered into a PAS Contract on or around February 14, 2011, thereafter submitted a urine screen which tested positive for alcohol, and admitted drinking beer on March 4, 2011. Respondent was again discharged from the Diversion Program.
 12. The above actions constitute violations of the following Colorado Pharmacy Board statutes and rules and provide grounds for Respondent suspension as imposed herein:

Colorado Revised Statutes

12-22-125. Unprofessional conduct - grounds for discipline.

(1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

... (c) Has violated:

(I) Any of the provisions of this part 1, including but not limited to any acts in section 12-22-126;

(II) The lawful rules of the board; or

(III) Any state or federal law pertaining to drugs.

(d) Is unfit or incompetent by reason of negligence, habits, or physical or mental illness, or for any other cause, to practice as such...

(e) Is addicted to, dependent on, or engages in the habitual or excessive use or abuse of intoxicating liquors, a habit-forming drug, or a controlled substance, as defined in section 18-18-102 (5), C.R.S.;

... (m) Has violated any lawful board order...

12-22-125.2. Disciplinary actions. (1) The board may deny or discipline an applicant, licensee, or registrant when the board determines that such applicant, licensee, or registrant has engaged in activities that are grounds for discipline.

* * *

12-22-605. Eligibility - participants.

... (3) Notwithstanding the provisions of this section, the board may summarily suspend the license of any licensee who is referred to a peer health assistance program by the board and who fails to attend or to complete such program. The board shall thereupon schedule a hearing on such suspension which shall be conducted in accordance with section 24-4-105, C.R.S.

* * *

Pharmacy Board Rules and Regulations

18.02.21 Violation of Board Orders or Negotiated Stipulations or Diversion Program Contracts. It shall be considered unprofessional conduct for a Colorado-licensed pharmacist or intern to violate a lawful Board order or negotiated stipulation issued in result of a formal complaint against the licensee or to violate a peer health assistance diversion program contract entered into pursuant to Rules 18.02.11 and 18.02.18.

* * *

13. The Board finds and concludes, and Respondent agrees, that based upon Respondent's above-described violations of the Pharmaceuticals and Pharmacists Act and relevant rules and regulations, the following discipline is just and appropriate under the circumstances.

DISPOSITION

Suspension Pending Re-entry into PAS Contract,
Complete PAS Compliance, Release by PAS to Return to Work,
and Entry into Subsequent Probationary Stipulation with Board

14. Suspension. Respondent's pharmacist license shall be SUSPENDED upon final execution of this Final Agency Order. Respondent's license shall remain suspended until such time as:
- Respondent enters into another Rehabilitation Contract with the PAS; and
 - Respondent remains in complete compliance with the PAS Contract; and
 - PAS approves and releases Respondent to return safely to the practice of pharmacy; and
 - Respondent enters into another Stipulation and Final Agency Order with the Board; and
 - In the event Respondent's license remains suspended for a period beyond two years, Respondent takes and passes the NAPLEX examination and fulfills any additional legal requirements for the reinstatement of his license in effect at the time of his request for reinstatement.

Terms of Suspension

15. Release from Interim Cessation of Practice Stipulation and 2009 FAO. Upon the effective date of this Final Agency Order, Respondent is released from the Stipulation for Interim Cessation of Practice entered on or around June 30, 2010, and the 2009 FAO.

16. Agreement to Cease Work in Any Pharmacy Outlet, Wholesale Outlet or Other Pharmaceutical Business. Respondent agrees that during his suspension he shall not work in any capacity for any prescription drug outlet, wholesale outlet, other outlet, or any other business requiring licensure or registration in the State of Colorado under the Pharmaceuticals and Pharmacists Act.
17. Other Requirements. Respondent acknowledges and agrees that, as a condition of this Final Agency Order and probation, Respondent shall:
- a. promptly pay all his own fees and costs associated with this Final Agency Order;
 - b. comply fully with this Final Agency Order; and
 - c. comply fully with the Pharmacists and Pharmaceuticals Act, all Board rules and regulations, and any other state and federal laws and regulations related to pharmacists and pharmaceuticals in the State of Colorado.
18. Discharge. Discharge from the requirements of this Final Agency Order must be requested in writing by Respondent. The Board will consider any request for discharge during the ordinary course of business. In any request for discharge it shall be Respondent's sole responsibility to establish, through written and other documentation, that Respondent has met all terms and conditions of this Final Agency Order. Respondent's suspension shall continue until formally discharged by the Board by way of Board order.
19. Advisements and Waivers. Respondent enters into this Final Agency Order freely and voluntarily, whether or not Respondent has consulted with legal counsel. Respondent acknowledges his understanding that he has the following rights:
- a. to have formal notice of hearing and charges served upon him;
 - b. to respond to said formal notice of charges;
 - c. to have a formal disciplinary hearing pursuant to Sections 12-22-125 and 12-22-125.2(2)(a), C.R.S.; and
 - d. to appeal this Final Agency Order.
- Respondent freely waives these rights, and acknowledges that such waiver is made voluntarily in consideration for the Board's limiting the action taken against Respondent to the sanctions imposed herein.
20. Acknowledgments. Respondent has read this Final Agency Order in its entirety and acknowledges, whether or not Respondent has consulted with legal counsel, that Respondent understands its legal consequences and agrees that none of its terms or conditions is

unconscionable. Respondent is not relying on any statements, promises or representations from the Board other than as may be contained in this Final Agency Order. Respondent further acknowledges that he is not entering into this Final Agency Order under any duress.

- 21. Violations. Time is of the essence in this Final Agency Order. It is the responsibility of Respondent to take all appropriate steps to comply fully with this Final Agency Order. Respondent acknowledges and agrees that any violation of this Final Agency Order shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under §12-22-125.2(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of Respondent's license. The pendency of any disciplinary action arising out of an alleged violation of this Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Final Agency Order.
- 22. Integration and Severability. Upon execution by all parties, this Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Final Agency Order shall be given full force and effect.
- 23. Public Record. Upon execution by all parties, this Final Agency Order shall be a public record, maintained to the custody of the Board.
- 24. Effective Date. This Final Agency Order shall become effective upon signature by a Board representative.

ACCEPTED AND AGREED BY:

Respondent

Robert A. Governski
Robert A. Governski, R.Ph.

Subscribed and sworn to before me in the County of Denver, State of Colorado, this 7th day of June, 2011, by Robert A. Governski, R.Ph.

[Signature]
Notary Public

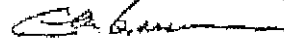
My Commission expires: 3/29/2012

FINAL AGENCY ORDER

WHEREFORE, the within Stipulation and Final Agency Order is approved, accepted, and hereby made an Order of the Board.

DONE AND EFFECTIVE this 8th day of June, 2011.

State Board of Pharmacy



BY: Wendy Anderson
WENDY ANDERSON
Program Director

DOCUMENT APPROVED AS TO FORM:

JOHN SUTHERS
Attorney General



JOANNA LEE KAYE, #20486*
Assistant Attorney General
Business and Licensing Section

Attorneys for State Board of Pharmacy

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*Counsel of Record