

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

In the Matter of the Petition for
Early Termination of Probation of:

DEBRA LYNN RYAN
330 Hazelwood Avenue
San Francisco, CA 94127

Pharmacist License No. RPH 38351

Petitioner.

Case No. L2005050073

DECISION

On July 21, 2005, in San Diego, California, a quorum of the Board of Pharmacy, comprised of Ruth Conroy, David Fong, Stanley Goldenberg, Clarence Hiura, John Jones, William Powers and Kenneth Schell heard this matter. Administrative Law Judge Vallera J. Johnson, Office of Administrative Hearings, State of California, presided.

Joshua A. Room, Deputy Attorney General, represented the Attorney General of the State of California.

Petitioner was present and represented herself.

The matter was submitted on July 21, 2005.

FACTUAL FINDINGS

1. On March 21, 1984, the Board of Pharmacy (Board) issued Pharmacist License number RPH 38351 to Debra Lynn Ryan (Petitioner); the license will expire on September 30, 2005, unless renewed.

Petitioner holds Nevada License No. 09452 issued July 1, 1987. Said license is in full force and effect and will expire on October 31, 2005, unless renewed. There is no evidence that said license has been disciplined.

2. On August 29, 2002, Patricia F. Harris, the Board's Executive Officer filed Accusation No. 2566. Complainant alleged that between January 1997 and April 2001, while employed as a pharmacist at Marin General Hospital, Petitioner, by her own admission, diverted or stole between 18,700 and 40,000 tablets of methyphenidate (general Ritalin), a controlled substance, from the pharmacy for her own use and falsified records to conceal her diversion/theft, in violation of Business and Professions Code section 4060 and Health and Safety Code sections 11173, 11170 and 11350; those violations constituted cause for disciplinary action pursuant to Business and Professions Code section 4301.

3. Effective May 2, 2003, pursuant to the Stipulated Settlement and Disciplinary Order, Case No. 2566, Petitioner admitted that the factual allegations set forth in the Accusation No. 2566 were true, acknowledged that the Board had a basis for discipline and agreed to be bound by the Board's imposition of discipline. As a consequence, the Board revoked Petitioner's license, stayed revocation and placed her on five years probation that included standard terms and conditions, a 30-day suspension, reimbursement of the Board's costs in the amount of \$6,600.00 to be paid in 19 equal payments, enrollment in and completion of Pharmacists Recovery Program (PRP), random drug screening, abstinence from drug or alcohol use, supervised practice and a prohibition of ownership of licensed premises. Probation is scheduled to expire on May 2, 2008.

4. On April 19, 2005, Petitioner filed this Petition for Termination of Probation. The supporting documents included:

- Letters of Recommendation from Board licensees Suzanne Kaiser and Kathi Lucas, both verified.
- Letters of Recommendation from private citizens Deborah Feuer (Marriage and Family Therapist) and Judi Clegg (Sponsor), both verified, and Leanne McCulloch (RPH) and Jack Arbeed (RPH, worksite monitor), not contacted to verify.
- Certificates of 40.5 hours of Board approved continuing education, July 2003 to April 2005.

Business and Professions Code section 4309 provides that a licensee who has been placed on probation for three years or longer may not file a petition for early termination of probation until two years have lapsed. The petition shall state any facts required by the Board and shall be accompanied by two or more verified recommendations from holders of licenses issued by the Board to which the petition is addressed, and two or more recommendations from citizens, each having personal knowledge of the disciplinary penalty imposed by the Board and the activities of Petitioner since the disciplinary penalty was imposed.

In this case, the Petition is properly before the Board and includes the requisite number of verified recommendations from Board licensees and private citizens.

5. On the date of hearing, Petitioner had served two years and two months of the probationary period. She has complied with all terms of probation, including, but not limited to:

- reporting requirements and payment of monitoring costs of probation;
- payment of all regular payments toward cost recovery; as of June 29, 2005, she had paid \$6,600.00, the entire amount of cost recovery;
- entered PRP on July 1, 2001 and successfully completed on January 11, 2005, and
- has been successfully inspected in her workplace throughout probation.

6. The conduct that resulted in discipline of Petitioner's license was her substance abuse problem. She is remorseful, has taken significant steps to understand the underlying issues that caused her alcohol/drug abuse, to achieve sobriety and to maintain her recovery.

In April 2001, after being confronted by her employer regarding the misconduct that constitutes the factual basis for the Accusation that was filed against her, Petitioner contacted the PRP. At the direction of the PRP case manager, on June 19, 2001, she contacted Springbrook Northwest, an inpatient residential treatment program, located in Newberg, Oregon, where she received her first treatment, from June 19 to September 21, 2001. She did not resume employment for 18 months.

Petitioner recognizes and acknowledges that she is a recovering alcoholic/drug addict. She began drinking alcohol at 14, using amphetamines at 18 and using opiates at 25. She admits drinking continuously and using drugs intermittently until she was directed to go into a drug rehabilitation program by the PRP on June 19, 2001, her sobriety date. She has been continuously clean and sober since that date. Since September 2001 she has participated in various recovery groups, including the Diversion Program, group therapy and individual counseling.

An essential component of Petitioner's on-going recovery is her participation in Alcoholics Anonymous (AA). She attends five to seven meetings a week, is a sponsor and is involved in service commitments. As part of her on-going step work, Petitioner reviewed the factors that the Board evaluates in making its determination regarding her petition. Though she has acknowledged her inexcusable conduct and is grateful for the compassion shown by her employer, she had not considered the possibility of restitution to the hospital. As a result, on March 23, 2005, Petitioner voluntarily contacted Peggy Dracker, Director of Pharmacy, Marin General Hospital, to begin the process to do so. According to Petitioner, on behalf of the hospital, Dracker agreed to accept the purchase values reported on the Drug Enforcement Administration Loss forms submitted during the investigation, determined to be \$5,269.00. On May 9, 2005, Petitioner paid restitution to Marin General Hospital.

In preparation for her move, Petitioner attends AA meetings each time that she visits her husband in Virginia. She has introduced herself and her circumstances and has met women who support her, with e-mail and occasional telephone calls. She intends to continue her involvement with AA when she moves to Virginia.

7. Petitioner seeks early termination of probation to be reunited with her husband who now resides in Virginia. They have lived separately during most of her recovery. He serves in the National Guard, was activated, and, in February 2003, deployed to Iraq; he did not return to the United States until March 2004. Upon return he was offered and accepted a position with a consulting firm in Virginia. She would like to move to Virginia to join him. Her probation does not permit her to leave the State of California for longer than three years, and they do not have a proposed return date. Also, Virginia may not give her a license with the California probation ongoing.

8. Considering the facts set forth in Findings 1, 2, 3, 4, 5, 6, 7 and 8, the petition and supporting documents establish the rehabilitated or corrective measures that Petitioner has taken since discipline of her license and that she has the necessary and current qualifications and skills to safely engage in the practice of pharmacy within the scope of current law and accepted standards of practice.

LEGAL CONCLUSIONS


The Petition for Early Termination of Probation and supporting documents and, among other things, the criteria set forth in Business and Professions Code section 4309, subdivision (d) have been considered. Given the foregoing and the facts set forth in Findings 1, 2, 3, 4, 5, 6, 7, 8 and 9, Petitioner established that she is sufficiently rehabilitated, that she is competent to practice within the scope of current law and standards of practice and that it would not be contrary to the public interest to terminate probation at this time.

ORDER

The Petition for Early Termination of Probation of Debra Lynn Ryan is granted.

DATED: September 14, 2005

BOARD OF PHARMACY



STANLEY W. GOLDENBERG
Board President

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

In the Matter of the Petition for Early Termination
of Probation of:

Case No. L2005050073

DEBRA LYNN RYAN
330 Hazelwood Avenue
San Francisco, CA 94127

Pharmacist License No. RPH 38351

Petitioner.

DECISION

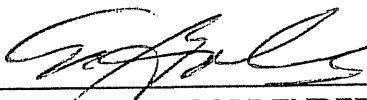
The attached Decision is hereby adopted by the Board of Pharmacy of the
Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on September 14, 2005.

It is so ORDERED on September 14, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

BILL LOCKYER, Attorney General
of the State of California
KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
California Department of Justice
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2138
Facsimile: (510) 622-2270

Attorneys for Complainant

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

In the Matter of the Accusation Against:

DEBRA LYNN RYAN
330 Hazelwood Avenue
San Francisco, CA 94127-2113

Pharmacist License No. RPH 38351

Respondent.

Case No. 2566

OAH No. N2002110065

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

PARTIES

1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
Pharmacy. She brought this action solely in her official capacity and is represented in this matter
by Bill Lockyer, Attorney General of the State of California, by Kim M. Settles, Deputy Attorney
General.

2. Respondent Debra Lynn Ryan (Respondent) is represented in this
proceeding by attorney Brock D. Phillips, Esq., whose address is Pacific West Law Group, 655
Redwood Highway, Suite 250, Mill Valley, CA 94941.

3. On or about March 21, 1984, the Board of Pharmacy issued Pharmacist
License No. RPH 38351 to Respondent Debra Lynn Ryan (Respondent). Said license has

1 continued in full force and effect and will expire on September 30, 2003, unless renewed.

2 JURISDICTION

3 4. Accusation No. 2566 was filed before the Board of Pharmacy, Department
4 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
5 statutorily required documents were properly served on Respondent on September 18, 2002.
6 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
7 No. 2566 is attached as Exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, fully discussed with counsel, and
10 understands the charges and allegations in Accusation No. 2566. Respondent has also carefully
11 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
12 Disciplinary Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation as set
24 forth in paragraph 11, in Accusation No. 2566.

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

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own or hold an interest in any pharmacy in which she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

2. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

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

3. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is **not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

4. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

5. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's

1 compliance with the terms and conditions of her probation. Failure to comply shall be
2 considered a violation of probation.

3 6. **Continuing Education.** Respondent shall provide evidence of efforts
4 to maintain skill and knowledge as a pharmacist as directed by the Board.

5 7. **Notice to Employers.** Respondent shall notify all present and
6 prospective employers of the decision in case number 2566 and the terms, conditions and
7 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
8 this decision, and within 15 days of Respondent undertaking new employment, Respondent
9 shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
10 writing acknowledging the employer has read the decision in case number 2566.

11 If Respondent works for or is employed by or through a pharmacy employment
12 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
13 every pharmacy of the terms and conditions of the decision in case number 2566 in advance of
14 the Respondent commencing work at each pharmacy.

15 "Employment" within the meaning of this provision shall include any full-time, part-
16 time, temporary, relief or pharmacy management service as a pharmacist, whether the
17 Respondent is considered an employee or independent contractor.

18 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
19 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
20 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
21 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
22 order.

23 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
24 its costs of investigation and prosecution in the amount of \$6,600.00. Respondent shall make
25 said payments as follows: Nineteen (19) quarterly payments in the amount of \$347.36.

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

28 10. **Probation Monitoring Costs.** Respondent shall pay the costs

1 associated with probation monitoring as determined by the Board each and every year of
2 probation. Such costs shall be payable to the Board at the end of each year of probation.
3 Failure to pay such costs shall be considered a violation of probation.

4 **11. Status of License.** Respondent shall, at all times while on probation,
5 maintain an active current license with the Board, including any period during which
6 suspension or probation is tolled.

7 If Respondent's license expires or is canceled by operation of law or otherwise,
8 upon renewal or reapplication, Respondent's license shall be subject to all terms and
9 conditions of this probation not previously satisfied.

10 **12. License Surrender while on Probation/Suspension.** Following the
11 effective date of this decision, should Respondent cease practice due to retirement or health, or
12 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
13 her license to the Board for surrender. The Board shall have the discretion whether to grant
14 the request for surrender or take any other action it deems appropriate and reasonable. Upon
15 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
16 terms and conditions of probation.

17 Upon acceptance of the surrender, Respondent shall relinquish her pocket
18 license to the Board within 10 days of notification by the Board that the surrender is accepted.
19 Respondent may not reapply for any license from the Board for three years from the effective
20 date of the surrender. Respondent shall meet all requirements applicable to the license sought
21 as of the date the application for that license is submitted to the Board.

22 **13. Notification of Employment/Mailing Address Change.** Respondent
23 shall notify the Board in writing within 10 days of any change of employment. Said
24 notification shall include the reasons for leaving and/or the address of the new employer,
25 supervisor or owner and work schedule if known. Respondent shall notify the Board in
26 writing within 10 days of a change in name, mailing address or phone number.

27 **14. Tolling of Probation.** Should Respondent, regardless of residency, for
28 any reason cease practicing pharmacy for a minimum of 20 hours per calendar month in

1 California, Respondent must notify the Board in writing within 10 days of cessation of the
2 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
3 shall not apply to the reduction of the probation period. It is a violation of probation for
4 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
5 period exceeding three years.

6 "Cessation of practice" means any period of time exceeding 30 days in which
7 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
8 the Business and Professions Code.

9 **15. Violation of Probation.** If Respondent violates probation in any
10 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
11 probation and carry out the disciplinary order which was stayed. If a petition to revoke
12 probation or an accusation is filed against Respondent during probation, the Board shall have
13 continuing jurisdiction and the period of probation shall be extended, until the petition to
14 revoke probation or accusation is heard and decided.

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

20 **16. Completion of Probation.** Upon successful completion of probation,
21 Respondent's license will be fully restored.

22 **17. Rehabilitation Program - Pharmacists Recovery Program (PRP).**
23 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
24 Recovery Program for evaluation and shall successfully participate in and complete the
25 treatment contract and any subsequent addendums as recommended and provided by the PRP
26 and as approved by the Board. The costs for PRP participation shall be borne by the
27 Respondent.

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1 If Respondent is currently enrolled in the PRP, said participation is now
2 mandatory and is no longer considered a self-referral under Business and Professions Code
3 section 4363, as of the effective date of this decision. Respondent shall successfully
4 participate in and complete her current contract and any subsequent addendums with the PRP.
5 Probation shall be automatically extended until Respondent successfully completes her
6 treatment contract. Any person terminated from the program shall be automatically suspended
7 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
8 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
9 probation for any violation of this term.

10 **18. Random Drug Screening.** Respondent, at her own expense, shall
11 participate in random testing, including but not limited to biological fluid testing (urine,
12 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
13 The length of time shall be for the entire probation period and the frequency of testing will be
14 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
15 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
16 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
17 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
18 in the immediate suspension of practice by Respondent. Respondent may not resume the
19 practice of pharmacy until notified by the Board in writing.

20 **19. Abstain from Drugs and Alcohol Use.** Respondent shall completely
21 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
22 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
23 practitioner as part of a documented medical treatment. Upon request of the Board,
24 Respondent shall provide documentation from the licensed practitioner that the prescription
25 was legitimately issued and is a necessary part of the treatment of the Respondent.

26 **20. Supervised Practice.** Respondent shall practice only under the
27 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
28 until the supervisor is approved by the Board. The supervision shall be, as required by the

Board, either:

Continuous - 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

Within 30 days of the effective date of this decision, Respondent shall have her supervisor submit notification to the Board in writing stating the supervisor has read the decision in case number 2566 and is familiar with the level of supervision as determined by the Board.

If Respondent changes employment, Respondent shall have her new supervisor, within 15 days after employment commences, submit notification to the Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 2566 and is familiar with the level of supervision as determined by the Board.

Within 10 days of leaving employment, Respondent shall notify the Board in writing.

21. **No Ownership of Premises.** Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board.

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the Board. If Respondent currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board, Respondent may

1 continue to serve in such capacity or hold that interest, but only to the extent of that position
2 or interest as of the effective of this decision.

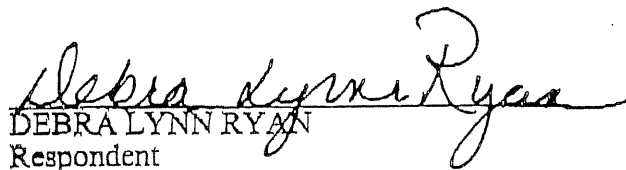
3 22. **Tolling of Suspension.** If Respondent leaves California to reside or
4 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
5 must notify the Board in writing of the dates of departure and return. Periods of residency or
6 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
7 reduction of the suspension period.

8 Respondent shall not practice pharmacy upon returning to this state until
9 notified by the Board that the period of suspension has been completed.

10 ACCEPTANCE

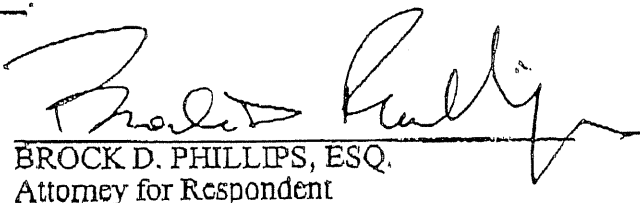
11 I have carefully read the above Stipulated Settlement and Disciplinary Order
12 and have fully discussed it with my attorney, Brock D. Phillips, Esq.. I understand the
13 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
14 Settlement and Disciplinary Order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

16 DATED: 2/20/2003.

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19 DEBRA LYNN RYAN
Respondent

20
21 I have read and fully discussed with Respondent Debra Lynn Ryan the terms
22 and conditions and other matters contained in the above Stipulated Settlement and
23 Disciplinary Order. I approve its form and content.

24 DATED: 2/20/03.

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26 
27 BROCK D. PHILLIPS, ESQ.
Attorney for Respondent

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DATED: 2/20/03

Kim M. Settles
KIM M. SETTLES
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against:

DEBRA LYNN RYAN
330 Hazelwood Avenue
San Francisco, CA 94127-2113

Pharmacist License No. RPH 38351

Respondent.

Case No. 2566

OAH No. N2002110065

DECISION AND ORDER

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

This Decision shall become effective on May 2, 2003.

It is so ORDERED April 3, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

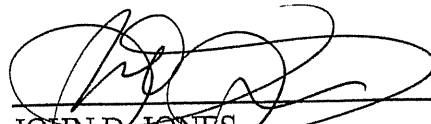

JOHN D. JONES
Board President

Exhibit A

Accusation No. 2566

BILL LOCKYER, Attorney General
of the State of California
KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
California Department of Justice
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2138
Facsimile: (510) 622-2270

Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 2566

DEBRA LYNN RYAN
330 Hazelwood Avenue
San Francisco, CA 94127-2113

ACCUSATION

Pharmacist License No. RPH 38351

Respondent.

Complainant alleges:

PARTIES

1. Complainant Patricia F. Harris, is the Executive Officer of the California State Board of Pharmacy, (hereinafter "the Board") and brings this accusation solely in her official capacity.

2. On or about March 21, 1984, the Board issued Original Pharmacist License Number RPH 38351 to Debra Lynn Ryan ("respondent"). Said license has continued in full force and effect and will expire on September 30, 2003, unless renewed.

STATUTES

3. Business and Professions Code section 118 provides that the Board retains jurisdiction to institute disciplinary proceedings after the expiration or forfeiture of a license by operation of law, during any period in which it may be renewed.

1 4. Business and Professions Code section 4300 provides that every license
2 issued by the Board may be suspended or revoked.

3 5. Business and Professions Code section 4301 provides in pertinent part that
4 the Board shall take action against any holder of a license who is guilty of unprofessional
5 conduct. Unprofessional conduct shall include, but is not limited to:

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

9 "(g) Knowingly making or signing any certificate or other document that
10 falsely represents the existence or nonexistence of a state of facts."

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

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

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

20 6. Business and Professions Code section 4060 provides in pertinent part
21 that, no person shall possess any controlled substance, except that furnished to a person upon the
22 prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug
23 order issued by a physician assistant pursuant to Section 3502.1 or a nurse practitioner pursuant
24 to Section 2836.1.

25 7. Health and Safety Code section 11173(a)(1)(2) provides, in pertinent part
26 that, no person shall obtain or attempt to obtain controlled substances, or procure or attempt to
27 procure the administration of or prescription for controlled substances by fraud, deceit,
28 misrepresentation, or subterfuge or by concealment of a material fact.

1 8. Health and Safety Code section 11350(a) provides in pertinent part that, it
2 is unlawful to possess a controlled substance unless upon the legitimate and lawful written
3 prescription of a licensed physician, dentist, podiatrist or veterinarian.

4 9. Health and Safety Code section 11170 provides that no person shall
5 prescribe, administer or furnish a controlled substance for himself.

6 DRUGS

7 10. Methylphenidate is a generic name for Ritalin and is a dangerous drug as
8 defined by section 4022 of the Business and Professions Code. It is a cortical stimulant with
9 central nervous system actions similar to the amphetamines, and is a Schedule II controlled
10 substance as defined by Health and Safety Code section 11055(d)(6).

11 CAUSE FOR DISCIPLINE

12 11. Respondent is subject to disciplinary action in that from on or about
13 January, 1997 to April 2001, while employed as a pharmacist at Marin General Hospital in
14 Greenbrae, California, respondent, by her own admission diverted and/or stole between 18,700 to
15 40,000 tablets of methylphenidate, a controlled substance, from the pharmacy for her own use and
16 falsified records to avoid discovery. The circumstances are as follows: respondent unlawfully
17 logged in a lesser amount of methylphenidate into the vault inventory than what had actually
18 been noted as being received on the DEA 222 form and diverted the difference; respondent used
19 fictitious prescription numbers when removing methylphenidate from the vault; respondent
20 wrote fictitious patient names on the vault log record and signed out methylphenidate for said
21 fictitious patients; respondent unlawfully noted "balance due" on the vault log when there were
22 adequate amounts of the methylphenidate to fill the alleged balance at the time of the original
23 prescription filling and diverted the balance; respondent manually signed out methylphenidate
24 from the narcotic vault and failed to perform the required Pyxis documentation; respondent
25 removed pages documenting methylphenidate from the inventory balance sheet; respondent
26 removed methylphenidate from Pyxis using the "unload" and "expire" functions and failed to log
27 the tablets back into the vault inventory or into expired controlled substance records.

28 12. Respondent's conduct as set forth in paragraph 11 constitutes the

1 commission of acts involving moral turpitude, dishonesty, fraud, and deceit and is cause for
2 disciplinary action pursuant to Business and Professions Code section 4301(f).

3 13. Respondent's conduct as set forth in paragraph 11 constitutes the
4 commission of acts involving the intentional making or signing a document that falsely
5 represents the existence or nonexistence of a state of facts and is cause for disciplinary action
6 pursuant to Business and Professions Code section 4301(g).

7 14. Respondent's conduct as set forth in paragraph 11 constitutes
8 administering a controlled substance to oneself and is cause for disciplinary action pursuant to
9 Business and Professions Code section 4301(h).

10 15. Respondent's conduct as set forth in paragraph 11 constitutes actions or
11 conduct that would have warranted denial of a license and is cause for disciplinary action
12 pursuant to Business and Professions Code section 4301(p).

13 16. Respondent's conduct as set forth in paragraph 11 constitutes a violation
14 of the statutes regulating controlled substances and dangerous drugs, to wit: Health and Safety
15 Code sections 11173, 11170, and 11350, and Business and Professions Code section 4060, and is
16 cause for disciplinary action pursuant to Business and Professions Code section 4301(j).

17 PRAYER

18 WHEREFORE, complainant requests that the Board hold a hearing on the matters
19 alleged herein and, after the hearing issue a decision:

20 1. Revoking or suspending Pharmacy License No. RPH 38351 heretofore
21 issued by the Board;

22 2. Awarding the Board reasonable costs of investigation and prosecution of
23 the case as provided by Business and Professions Code section 125.3.

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3. Taking such other and further action as the Board deems proper.

DATED: 8/29/02

P. J. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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