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8 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:  
12 CESAR BURGUILLOS CABRERA, R.P.H.  
13 31921 Old Hickory Road  
14 Trabuco Canyon, CA 92679

Case No. 2777

OAH No. L-2004080434

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 Pharmacist License No. RPH 41132

16 Respondent.  
17

18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the  
20 public interest and the responsibility of the Board of Pharmacy the parties hereby agree to the  
21 following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for  
22 approval and adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of  
25 Pharmacy has brought this action solely in her official capacity and is represented in this matter  
26 by Bill Lockyer, Attorney General of the State of California, by James M. Ledakis, Deputy  
27 Attorney General.

1                     2.     Respondent Cesar Burguillos Cabrera, R.P.H. (Respondent) is represented  
2     in this proceeding by attorney Donald Brown, whose address is 3848 Carson Street, Suite 206  
3     Torrance, CA 90503.

4                     3.     On or about August 18, 1987, the Board of Pharmacy issued Pharmacist  
5     License No. RPH 41132 to Cesar Burguillos Cabrera, R.P.H. (Respondent). The License was in  
6     full force and effect at all times relevant to the charges brought in Accusation No. 2777 and will  
7     expire on December 31, 2004, unless renewed.

8   JURISDICTION

9                     4.     Accusation No. 2777 was filed before the Board, and is currently pending  
10     against Respondent. The Accusation and all other statutorily required documents were properly  
11     served on Respondent on August 4, 2004. Respondent timely filed his Notice of Defense  
12     contesting the Accusation. A copy of Accusation No. 2777 is attached as exhibit A and  
13     incorporated herein by reference.

14   ADVISEMENT AND WAIVERS

15                     5.     Respondent has carefully read, fully discussed with counsel, and  
16     understands the charges and allegations in Accusation No. 2777. Respondent has also carefully  
17     read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
18     Disciplinary Order.

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

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

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in  
3 Accusation No. 2777, if proven at a hearing, constitute cause for imposing discipline upon his  
4 Pharmacist License.

5 9. For the purpose of resolving the Accusation without the expense and  
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
7 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up  
8 his right to contest those charges.

9 10. Respondent agrees that his Pharmacist License is subject to discipline and  
10 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary  
11 Order below.

12 RESERVATION

13 11. The admissions made by Respondent herein are only for the purposes of  
14 this proceeding, or any other proceedings in which the Board or other professional licensing  
15 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

16 CONTINGENCY

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

20 13. In consideration of the foregoing admissions and stipulations, the parties  
21 agree that the Director may, without further notice or formal proceeding, issue and enter the  
22 following Disciplinary Order:

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 41132 issued to  
25 Respondent Cesar Burguillos Cabrera, R.P.H. (Respondent) is revoked. However, the revocation  
26 is stayed and Respondent is placed on probation for five (5) years on the following terms and  
27 conditions.

28

1           1.       **Actual Suspension.** Pharmacist license number RPH 41132, issued to  
2 Respondent Cesar Burguillos Cabrera, R.P.H. is suspended for a period of ninety (90) days.

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

11           Respondent shall not engage in any activity that requires the professional  
12 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of  
13 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for  
14 any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to  
15 own or hold an interest in any pharmacy in which he holds an interest at the time this decision  
16 becomes effective unless otherwise specified in this order.

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

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

- 21           • an arrest or issuance of a criminal complaint for violation of any provision of
- 22           the Pharmacy Law, state and federal food and drug laws, or state and federal
- 23           controlled substances laws
- 24           • a plea of guilty or nolo contendere in any state or federal criminal proceeding
- 25           to any criminal complaint, information or indictment
- 26           • a conviction of any crime
- 27           • discipline, citation, or other administrative action filed by any state and federal
- 28           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.

29           2.       **Reporting to the Board.** Respondent shall report to the Board  
30 quarterly. The report shall be made either in person or in writing, as directed. Respondent

1 shall state under penalty of perjury whether there has been compliance with all the terms and  
2 conditions of probation. If the final probation report **is not** made as directed, probation shall  
3 be extended automatically until such time as the final report is made and accepted by the  
4 Board.

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

9           4.       **Cooperation with Board Staff.** Respondent shall cooperate with the  
10 Board's inspection program and in the Board's monitoring and investigation of Respondent's  
11 compliance with the terms and conditions of his probation. Failure to comply shall be  
12 considered a violation of probation.

13           5.       **Notice to Employers.** Respondent shall notify all present and  
14 prospective employers of the decision in case number 2777 and the terms, conditions and  
15 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of  
16 this decision, and within 15 days of Respondent undertaking new employment, Respondent  
17 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in  
18 writing acknowledging the employer has read the decision in case number 2777.

19           If Respondent works for or is employed by or through a pharmacy employment  
20 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
21 every pharmacy of the and terms conditions of the decision in case number 2777 advance of  
22 the Respondent commencing work at each pharmacy.

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

26           6.       **No Preceptorships, Supervision of Interns, Being Pharmacist-in-  
27 Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern  
28 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the

1 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this  
2 order.

3           7.       **Reimbursement of Board Costs.** Respondent shall pay to the Board  
4 its costs of investigation and prosecution in the amount of \$6,300. Respondent may make  
5 arrangements with his probation monitor to make payments over the course of his probation,  
6 but all payments must be made in full per agreement as a condition of probation.

7           The filing of bankruptcy by Respondent shall not relieve Respondent of his  
8 responsibility to reimburse the Board its costs of investigation and prosecution.

9           8.       **Probation Monitoring Costs.** Respondent shall pay the costs  
10 associated with probation monitoring as determined by the Board each and every year of  
11 probation. Such costs shall be payable to the Board at the end of each year of probation.  
12 Failure to pay such costs shall be considered a violation of probation.

13           9.       **Status of License.** Respondent shall, at all times while on probation,  
14 maintain an active current license with the Board, including any period during which  
15 suspension or probation is tolled.

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

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

26           Upon acceptance of the surrender, Respondent shall relinquish his pocket  
27 license to the Board within 10 days of notification by the Board that the surrender is accepted.  
28 Respondent may not reapply for any license from the Board for three years from the effective

1 date of the surrender. Respondent shall meet all requirements applicable to the license sought  
2 as of the date the application for that license is submitted to the Board.

3           **11. Notification of Employment/Mailing Address Change.** Respondent  
4 shall notify the Board in writing within 10 days of any change of employment. Said  
5 notification shall include the reasons for leaving and/or the address of the new employer,  
6 supervisor or owner and work schedule if known. Respondent shall notify the Board in  
7 writing within 10 days of a change in name, mailing address or phone number.

8           **12. Tolling of Probation.** Should Respondent, regardless of residency, for  
9 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in  
10 California, Respondent must notify the Board in writing within 10 days of cessation of the  
11 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time  
12 shall not apply to the reduction of the probation period. It is a violation of probation for  
13 Respondent's probation to remain tolled pursuant to the provisions of this condition for a  
14 period exceeding three years.

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

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

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

1                   14.     **Completion of Probation.** Upon successful completion of probation,  
2 Respondent's license will be fully restored.

3                   15.     **Rehabilitation Program - Pharmacists Recovery Program (PRP).**  
4 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists  
5 Recovery Program for evaluation and shall successfully participate in and complete the  
6 treatment contract and any subsequent addendums as recommended and provided by the PRP  
7 and as approved by the Board. The costs for PRP participation shall be borne by the  
8 Respondent.

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

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

28



1           17.     **Abstain from Drugs and Alcohol Use.** Respondent shall completely  
2 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their  
3 associated paraphernalia except when the drugs are lawfully prescribed by a licensed  
4 practitioner as part of a documented medical treatment. Upon request of the Board,  
5 Respondent shall provide documentation from the licensed practitioner that the prescription  
6 was legitimately issued and is a necessary part of the treatment of the Respondent.


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

13           19.     **Tolling of Suspension.** If Respondent leaves California to reside or  
14 practice outside this state, for any period exceeding 10 days (including vacation), Respondent  
15 must notify the Board in writing of the dates of departure and return. Periods of residency or  
16 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the  
17 reduction of the suspension period. Respondent shall not practice pharmacy upon returning to  
18 this state until notified by the Board that the period of suspension has been completed.

19                                     ACCEPTANCE

20           I have carefully read the above Stipulated Settlement and Disciplinary Order  
21 and have fully discussed it with my attorney, Donald Brown. I understand the stipulation and  
22 the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and  
23 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
24 Decision and Order of the Board.

25  
26   DATED: 12/21/04

27                                       
28                                     CESAR BURGUILLOS CABRERA, R.P.H.  
                                      (P. Respondent)

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I concur with this stipulated settlement.

DEC 29 2004

DATED: \_\_\_\_\_



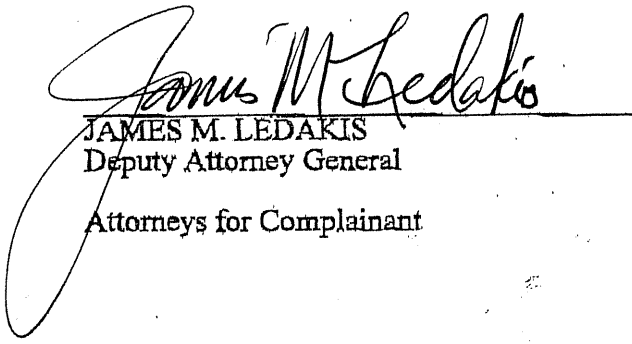
\_\_\_\_\_  
DONALD BROWN  
Attorney for Respondent

ENDORSEMENT

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

DATED: January 3, 2005

BILL LOCKYER, Attorney General  
of the State of California

  
\_\_\_\_\_  
JAMES M. LEDAKIS  
Deputy Attorney General  
Attorneys for Complainant

DOJ Matter ID: SD2004800487  
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BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CESAR BURGUILLOS CABRERA, R.P.H.

31921 Old Hickory Road  
Trabuco Canyon, CA 92679

Pharmacist License No. RPH 41132

Respondent.

Case No. 2777

OAH No. L-2004080434

**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 March 6, 2005.

It is so ORDERED February 4, 2005.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG  
Board President

**Exhibit A**

**Accusation No. 2777**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JAMES M. LEDAKIS, State Bar No. 132645  
Deputy Attorney General  
3 California Department of Justice  
110 West "A" Street, Suite 1100  
4 San Diego, CA 92101

5 P.O. Box 85266  
San Diego, CA 92186-5266  
6 Telephone: (619) 645-2105  
Facsimile: (619) 645-2061

7 Attorneys for Complainant  
8

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. 2777

13 CESAR B. CABRERA  
31921 Old Hickory Road  
14 Trabuco Canyon, CA 92679

**A C C U S A T I O N**

15 License No. RPH 41132

16 Respondent.  
17

18 Complainant alleges:

19 PARTIES

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

23 2. On or about August 18, 1987, the Board of Pharmacy issued Original  
24 Pharmacist License Number RPH 50646 to CESAR B. CABRERA (Respondent). Said license  
25 will expire on December 31, 2004, unless renewed.

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28 /

JURISDICTION

1  
2           3.       This Accusation is brought before the Board of Pharmacy (Board), under  
3 the authority of the following sections of the Business and Professions Code (Code).

4           4.       Section 4022 of the Code states:

5           "Dangerous drug" or "dangerous device" means any drug or device unsafe for  
6 self-use, except veterinary drugs that are labeled as such, and includes the following:

7           "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing  
8 without prescription," "Rx only," or words of similar import.

9           "(b) Any device that bears the statement: "Caution: federal law restricts this  
10 device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the  
11 blank to be filled in with the designation of the practitioner licensed to use or order use of the  
12 device.

13           ". . . ,

14           5.       Section 4300 of the Code states:

15           "(a) Every license issued may be suspended or revoked.

16           "(b) The board shall discipline the holder of any license issued by the board,  
17 whose default has been entered or whose case has been heard by the board and found guilty, by  
18 any of the following methods:

19           ". . . ,

20           6.       Section 4301 of the Code states:

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

25           ". . . ,

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

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....,

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

....,

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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

....,"

7. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

1           8.       Section 4060 of the Code states:

2           "No person shall possess any controlled substance, except that furnished to a  
3 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished  
4 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse  
5 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This  
6 section shall not apply to the possession of any controlled substance by a manufacturer,  
7 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse  
8 practitioner, or physician assistant, when in stock in containers correctly labeled with the name  
9 and address of the supplier or producer.

10           "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,  
11 or a physician assistant to order his or her own stock of dangerous drugs and devices."

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

16           10.      Section 125.3 of the Code provides, in pertinent part, that the Board may  
17 request the administrative law judge to direct a licentiate found to have committed a violation or  
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
19 and enforcement of the case.

20   DRUGS DEFINED:

21           11.      "Tylenol with Codeine No. 4," is also known generically as a combination  
22 drug containing Acetaminophen and not more than 1.8 grams of Codeine per 100 milliliters or  
23 not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in  
24 recognized therapeutic amounts. It is a Schedule III controlled substance as designated by  
25 California Health and Safety Code section 11056(e)(2).

26           12.      "Diazepam" also known as "Valium" is a Schedule IV drug as classified by  
27 Health & Safety Code Section 11057(d)(9).

28



1           13.     "Dyazide," a brand name for triamterene, is unsafe for self-medication, and  
2 is a dangerous drug as defined by California Business and Professions Code section 4022.

3           14.     "Fastin, 30 mg.," is a brand name for phentermine hydrochloride which is  
4 a Schedule IV controlled substance as designated by California Health and Safety Code section  
5 11057(f)(4).

6           15.     "Glucophage", also known generically as "Metformin" is a dangerous drug  
7 as defined by California Business and Professions Code section 4022.

8           16.     "Hydrocodone" is a Schedule III drug as classified by Health & Safety  
9 Code section 11056(e)(4).

10          17.     "Carisoprodol" is the generic form of Soma and is a dangerous drug as  
11 defined under Business & Professions Code section 4022.

12 STATEMENT OF FACTS:

13          18.     On January 8, 2003, Long Beach Police Officer P.R. stopped his patrol car  
14 to assist a stranded motorist, Respondent, on the side of the road. Respondent told the officer  
15 that he hit a mud puddle and his engine died. Officer P.R. called a tow truck for respondent.

16          19.     During a routine license check, Officer P.R. discovered that Respondent  
17 was driving on a suspended drivers license and expired license plates. Incident to Respondent's  
18 arrest, Officer P.R. observed in plain view a medium sized pill bottle, with no label, in an open  
19 soft sided brief case in Respondent's car. Respondent told the officer that the pills were Soma (a  
20 dangerous drug) and that he did not have a prescription for them in his possession. Officer P.R.  
21 requested permission to search his car and Respondent consented. Officer P.R. took into custody  
22 \$1,850 in cash, 1000 tablets of Acetaminophen with Codeine #3, 174 tablets of Hydrocodone  
23 10/325, 270 tablets of Vicodin ES 7.5/750, 141 tablets of Hydrocodone/APAP, 100 tablets of  
24 Soma, 700 tablets of Diazepam, 97 tablets of Metformin Hydrochloride, 24 tablets of Hyzaar and  
25 a small bottle of 10 tablets of generic Soma.

26          20.     Officer P.R. asked Respondent if he had a prescription for all the  
27 aforementioned drugs and Respondent replied "no". Respondent told Officer P.R. that he took  
28 the drugs from Wards Pharmacy in Long Beach, California, where he worked part time.

1 Respondent was arrested for driving on a suspended license and drug possession.

2 21. On December 18, 2003, Respondent pled guilty to two felony counts and  
3 one misdemeanor count for possession of drugs with intent to sell as follows: 1) Felony  
4 possession for sale of Hydrocodone with Acetaminophen, 2) Felony possession for sale of  
5 Acetaminophen with Codeine, and 3) misdemeanor possession for sale of Diazepam.

6 FIRST CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct for Acts Involving Moral Turpitude)

8 22. Respondent is subject to disciplinary action under section 4301(f) for  
9 unprofessional conduct involving moral turpitude in that on December 18, 2003, he pled guilty to  
10 two felony counts and one misdemeanor count related to possession of drugs with intent to sell.

11 23. Complainant incorporates by reference paragraphs 18 through 21.

12 SECOND CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct for Violation of Law)

14 24. Respondent is subject to disciplinary action under section 4301(j) for  
15 violation of statutes related to controlled substances in that Respondent was convicted of two  
16 counts of violating Health & Safety Code section 11351 and one count of violating Health &  
17 Safety Code section 11375 in the Superior Court for the County of Orange, State of California.

18 25. Complainant incorporates by reference as though fully set forth paragraphs  
19 18 through 21.

20 THIRD CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct for Conviction of Crime Substantially

22 Related to his Duties as a Pharmacist)

23 26. Respondent is subject to disciplinary action under section 4301(l) for  
24 conviction of crimes substantially related to his duties as a pharmacist in that Respondent pled  
25 guilty to two felony counts of possession and one misdemeanor count of possession of drugs with  
26 intent to sell resulting in a conviction for violation of Health & Safety Code sections 11351 and  
27 11375.

28 /

1                     27.     Complainant incorporates by reference as though fully set forth paragraphs  
2 18 through 21.

3                                     FOURTH CAUSE FOR DISCIPLINE

4                     (Unprofessional Conduct for Engaging in Conduct Warranting Denial of a License)

5                     28.     Respondent is subject to disciplinary action under section 4301(p) for  
6 engaging in conduct that would have warranted the denial of his license in that he was convicted  
7 of two felonies and one misdemeanor for possession of drugs with intent to sell.

8                     29.     Complainant incorporates by reference as though fully set forth paragraphs  
9 18 through 21.

10                                     PRAYER

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

- 13                     1.     Revoking or suspending RPH License No. 41132, issued to CESAR B.  
14 CABRERA;  
15                     2.     Ordering CESAR B. CABRERA to pay the Board of Pharmacy the  
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
17 Professions Code section 125.3;  
18                     3.     Taking such other and further action as deemed necessary and proper.  
19

20 DATED: 7/23/04

21  
22 *P. J. Harris*  
23 PATRICIA F. HARRIS  
24 Executive Officer  
25 Board of Pharmacy  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant