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

11 In the Matter of the Accusation Against:
12 ROBERT WAYNE BLACKBURN
25515 Lone Pine
13 Laguna Hills, CA 92653
14
15 Pharmacist License No. RPH 30586
16 Respondent.

Case No. 2784
OAH No. 2006050922
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

21 1. Virginia Herold (Complainant) is the Interim Executive Officer of the
22 Board of Pharmacy. She brought this action solely in her official capacity and is represented in
23 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Thomas L.
24 Rinaldi, Deputy Attorney General.

25 2. Respondent Robert Wayne Blackburn Robert Wayne Blackburn
26 (Respondent) is representing himself in this proceeding and has chosen not to exercise his right
27 to be represented by counsel.

28 3. On or about April 30, 1990, the Board of Pharmacy issued Pharmacist

1 License No. RPH 30586 to Respondent. The Pharmacist License is currently active and will
2 expire on April 30, 2007, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2784 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on March 8,
7 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2784 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Accusation No. 2784. Respondent has also carefully read, and understands the effects of this
12 Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his 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 his own expense; the right to confront and cross-examine the witnesses against him;
16 the right to present evidence and to testify on his 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 in
24 Accusation No. 2784.

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

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- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
- 2 any criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state and federal
- 5 agency which involves Respondent's license or which is related to the practice
- 6 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
- 7 or charging for any drug, device or controlled substance.

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

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

18 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
19 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
20 compliance with the terms and conditions of his probation. Failure to comply shall be
21 considered a violation of probation.

22 5. **Continuing Education.** Respondent shall provide evidence of efforts
23 to maintain skill and knowledge as a pharmacist as directed by the Board.

24 6. **Notice to Employers.** Respondent shall notify all present and
25 prospective employers of the decision in case number 2784 and the terms, conditions and
26 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
27 this decision, and within 15 days of Respondent undertaking new employment, Respondent
28 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in

1 writing acknowledging the employer has read the decision in case number 2784.

2 If Respondent works for or is employed by or through a pharmacy employment
3 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
4 every pharmacy of the and terms conditions of the decision in case number 2784 in advance of
5 the Respondent commencing work at each pharmacy.

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

9 **7. No Preceptorships, Supervision of Interns, or Serving as a**
10 **Consultant, Limitations on Being Pharmacist-in-Charge (PIC).** Respondent shall not
11 supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall
12 Respondent be the pharmacist-in-charge of any entity licensed by the Board in a wholesale
13 capacity or for an entity engaging in any activities for which a wholesale permit is required,
14 unless otherwise specified in this order.

15 **8. Reimbursement of Board Costs.** Respondent shall pay to the Board
16 its costs of investigation and prosecution of this matter in the amount of \$49,078.00. This
17 amount reflects an offset of \$6,744, which represents reimbursement of the costs of
18 investigation and enforcement Respondent previously paid pursuant to Board of Pharmacy
19 Case No. 2421. Respondent shall make said payments in a payment plan approved by the
20 Board.

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

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

27 **10. Status of License.** Respondent shall, at all times while on probation,
28 maintain an active current license with the Board, including any period during which

1 suspension or probation is tolled.

2 If Respondent's license expires or is cancelled by operation of law or otherwise,
3 upon renewal or reapplication, Respondent's license shall be subject to all terms and
4 conditions of this probation not previously satisfied.

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

12 Upon acceptance of the surrender, Respondent shall relinquish his pocket
13 license to the Board within 10 days of notification by the Board that the surrender is accepted.
14 Respondent may not reapply for any license from the Board for three years from the effective
15 date of the surrender. Respondent shall meet all requirements applicable to the license sought
16 as of the date the application for that license is submitted to the Board.

17 **12. Notification of Employment/Mailing Address Change.** Respondent
18 shall notify the Board in writing within 10 days of any change of employment. Said
19 notification shall include the reasons for leaving and/or the address of the new employer,
20 supervisor or owner and work schedule if known. Respondent shall notify the Board in
21 writing within 10 days of a change in name, mailing address or phone number.

22 **13. Tolling of Probation.** Should Respondent, regardless of residency, for
23 any reason cease practicing pharmacy for a minimum of eighty 80 hours per calendar month in
24 California, Respondent must notify the Board in writing within 10 days of cessation of the
25 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
26 shall not apply to the reduction of the probation period. It is a violation of probation for
27 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
28 period exceeding three years.

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

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

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

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

17 ACCEPTANCE

18 I have carefully read the Stipulated Settlement and Disciplinary Order. I
 19 understand the stipulation and the effect it will have on my Pharmacist License. I enter into
 20 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
 21 and agree to be bound by the Decision and Order of the Board of Pharmacy.

22 DATED: FEBRUARY 12, 2007.

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 25 ROBERT WAYNE BLACKBURN
 Respondent

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ENDORSEMENT

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

DATED: 2/20/07

EDMUND G. BROWN JR., Attorney General
of the State of California



THOMAS L. RINALDI
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2004601184
60190537.wpd

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

In the Matter of the Accusation Against:

ROBERT WAYNE BLACKBURN
25515 Lone Pine
Laguna Hills, CA 92653

Pharmacist License No. RPH 30586

Respondent.

Case No. 2784

OAH No. 2006050922

DECISION AND ORDER

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

This Decision shall become effective on April 25, 2007.

It is so ORDERED March 26, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

Exhibit A
Accusation No. 2784

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of the State of California
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case No. 2784

OAH No.

13 ROBERT WAYNE BLACKBURN
25515 Lone Pine
14 Laguna Hills, CA 92653

ACCUSATION

AND

15 Pharmacist License No. RPH 30586,

**PETITION TO REVOKE
PROBATION**

16
17 Respondent.

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20 Complainant alleges:

21 PARTIES

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

25 2. On or about April 30, 1990, the Board of Pharmacy issued Pharmacist
26 License No. RPH 30586 to Robert Wayne Blackburn (Respondent). Respondent's Pharmacist
27 License is currently on probationary status until September 10, 2006. The license will expire on
28 April 30, 2007, unless renewed.

JURISDICTION

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

5 4. Section 4300 permits the board to take disciplinary action to suspend or
6 revoke a license issued by the Board.

7 5. Section 4301 states, in pertinent part:

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

12

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

15

16 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
17 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
18 applicable federal and state laws and regulations governing pharmacy, including regulations
19 established by the board.

20 6. Section 4059.5 states, in pertinent part:

21 "(a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
22 devices may only be ordered by an entity licensed by the board and shall be delivered to the
23 licensed premises and signed for and received by a pharmacist. Where a licensee is permitted to
24 operate through an exemptee, the exemptee may sign for and receive the delivery.

25 7. Section 4160 states, in pertinent part:

26 "(a) No person shall act as a wholesaler of any dangerous drug or dangerous
27 device unless he or she has obtained a license from the board. Upon approval by the board and
28 the payment of the required fee, the board shall issue a license to the applicant.

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2 "(c) A separate license shall be required for each place of business owned or
3 operated by a wholesaler. Each license shall be renewed annually and shall not be
4 transferable. . . ."

5 8. Section 4043, subdivision (a), states, in pertinent part:

6 ""Wholesaler" means and includes every person who acts as a wholesale
7 merchant, broker, jobber, customs broker, reverse distributor, agent, or out-of-state distributor,
8 who sells for resale, or negotiates for distribution, or takes possession of, any drug or device
9 included in Section 4022. . . ."

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

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

18 **INTEGRATED HEALTH CARE ASSETS**

19 11. Integrated Health Assets, Inc. ("IHA") is a California for-profit corporation
20 with Robert Wayne Blackburn as its sole officer and director. On or about January 25, 2000,
21 Robert Wayne Blackburn was issued 100% of the corporation's common stock. The
22 corporation's agent for service of process is Robert Wayne Blackburn, 28241 Crown Valley
23 Pkwy., #616, Laguna Niguel, CA 92677. IHA has not been issued a permit of any kind by the
24 Board and is not authorized to purchase, sell or transfer dangerous drugs.

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1 CONDITION NO. 12

2 "(12). **Change of Employment.** Respondent shall notify the board in writing
3 within 10 days of any change of employment. The notice shall include the reasons for leaving. If
4 respondent is beginning a new employment, the notice shall also include the address of the new
5 employer, supervisor, or owner and respondent's new work schedule, if known. Respondent
6 shall notify the board in writing within 10 days of a change in name, mailing address or phone
7 number.

8 GROUND FOR REVOKING PROBATION AND STAY OF REVOCATION

9 19. Grounds exist to revoke Respondent Robert Wayne Blackburn's probation
10 and reimpose the order of revocation in that he failed to comply with the following terms and
11 conditions of probation:

12 a. Condition 1: Respondent failed to comply with probation condition No.
13 1 by failing to comply with all federal, state, and local laws governing the practice of pharmacy
14 in California as further described in paragraphs 11-13 above.

15 b. Condition 6: Respondent failed to comply with condition
16 No. 6 by failing to provide his employer (Vista Specialty Hospital in Baldwin Park, California)
17 with a copy of the Board's decision (Case No. 2421) imposing discipline upon his license.

18 c. Condition 12: Respondent failed to comply with condition
19 No. 6 by failing to inform the Board of his employment with Vista Specialty Hospital in Baldwin
20 Park, California.

21 PRAYER

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

24 1. Revoking or suspending Pharmacist License No. RPH 30586, issued to
25 Robert Wayne Blackburn.

26 2. Revoking the probation that was granted by the Board in Case No. 2421
27 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No.
28 RPH 30586, issued to Robert Wayne Blackburn;

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3. Ordering Robert Wayne Blackburn 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;

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

DATED: 2/22/06

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

Complainant

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