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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 TIMOTHY GRUBB

13 18792 Haven Lane
14 Yorba Linda, CA 92886-2630

15 Pharmacist License No. RPH 36445

16 Respondent.

Case No. 2885

OAH No. L-2006030837

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

19 PARTIES

20 1. Virginia Herold (Complainant) is the current Acting Executive Officer of
21 the Board of Pharmacy (Board). Patricia F. Harris, the former Executive Officer of the Board
22 brought this action solely in her then official capacity. Complainant is represented in this matter
23 by Bill Lockyer, Attorney General of the State of California, by Barry G. Thorpe, Deputy
24 Attorney General.

25 2. Respondent Timothy Grubb (Respondent) is represented in this proceeding
26 by attorney Donald B. Brown, whose address is Law Offices of Brown & Brown, 3848 Carson
27 Street, Ste. 206, Torrance, CA 90503.

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1 1. **Actual Suspension - Pharmacist.** License number RPH 36445, issued to
2 Respondent Timothy Grubb 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 Respondent's suspension shall continue to remain in effect until Respondent has
18 been evaluated by the Pharmacists Recovery Program and has received their clearance to resume
19 the practice of pharmacy, in accordance with the other terms and conditions of this stipulation.

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

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

- 24 • an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal
26 controlled substances laws
- 27 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
28 any criminal complaint, information or indictment

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

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

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

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

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

22 7. **Notice to Employers.** Respondent shall notify all present and
23 prospective employers of the decision in case number 2885 and the terms, conditions and
24 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
25 this decision, and within 15 days of Respondent undertaking new employment, Respondent
26 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
27 writing acknowledging the employer has read the decision in case number 2885.

28 If Respondent works for or is employed by or through a pharmacy employment

1 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
2 every pharmacy of the and terms conditions of the decision in case number 2885 in advance of
3 the Respondent commencing work at each pharmacy.

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

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

12 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
13 its costs of investigation and prosecution in the amount of \$6,500.00. Respondent shall make
14 said payments on a quarterly basis in equal amounts. Full payment must be completed by the
15 end of Respondent's fourth year of probation.

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

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

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

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

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1 12. **License Surrender while on Probation/Suspension.**

2 Following the effective date of this decision, should Respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 Respondent may tender his license to the Board for surrender. The Board shall have the
5 discretion whether to grant the request for surrender or take any other action it deems
6 appropriate and reasonable. Upon formal acceptance of the surrender of the license,
7 Respondent will no longer be subject to the terms and conditions of probation.

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

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

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

25 “Cessation of practice” means any period of time exceeding 30 days in which
26 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
27 the Business and Professions Code.

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1 15. **Violation of Probation.** If Respondent violates probation in any
2 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
3 probation and carry out the disciplinary order which was stayed. If a petition to revoke
4 probation or an accusation is filed against Respondent during probation, or the Office of the
5 Attorney General has received a request from the Board to prepare a petition to revoke
6 probation or an accusation, the Board shall have continuing jurisdiction and the period of
7 probation shall be extended, until the petition to revoke probation or accusation is heard and
8 decided.

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

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

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

22 If Respondent is currently enrolled in the PRP, said participation is now
23 mandatory and is no longer considered a self-referral under Business and Professions Code
24 section 4363, as of the effective date of this decision. Respondent shall successfully
25 participate in and complete his current contract and any subsequent addendums with the PRP.
26 Probation shall be automatically extended until Respondent successfully completes his
27 treatment contract. Any person terminated from the program shall be automatically suspended
28 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified

1 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
2 probation for any violation of this term.

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

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

19 20. **Supervised Practice.** Respondent shall practice only under the
20 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
21 until the supervisor is approved by the Board. The supervision shall be, as required by the
22 Board, either:

23 Continuous - 75% to 100% of a work week

24 Substantial - At least 50% of a work week

25 Partial - At least 25% of a work week

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

28 Within 30 days of the effective date of this decision, Respondent shall have his supervisor

1 submit notification to the Board in writing stating the supervisor has read the decision in case
2 number 2885 and is familiar with the level of supervision as determined by the Board.

3 If Respondent changes employment, Respondent shall have his new supervisor,
4 within 15 days after employment commences, submit notification to the Board in writing
5 stating the direct supervisor and pharmacist-in-charge have read the decision in case number
6 2885 and is familiar with the level of supervision as determined by the Board.

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

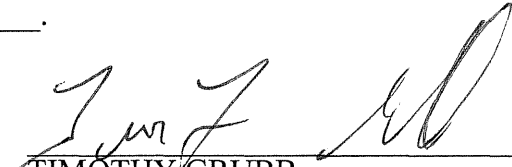
9 21. **Tolling of Suspension.** If Respondent leaves California to reside or
10 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
11 must notify the Board in writing of the dates of departure and return. Periods of residency or
12 practice outside the state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

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

16
17 ACCEPTANCE

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

23 DATED: AUG 16 2006 .

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25 
26 TIMOTHY GRUBB
Respondent

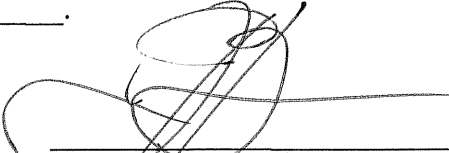
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I have read and fully discussed with Respondent Timothy Grubb the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

AUG 16 2006

DATED: _____.



DONALD B. BROWN
Attorney for Respondent

ENDORSEMENT

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

DATED: 8-18-06.

BILL LOCKYER, Attorney General
of the State of California



BARRY G. THORPE
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005700602
60155220.wpd

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

In the Matter of the Accusation Against:

TIMOTHY GRUBB

18792 Haven Lane
Yorba Linda, CA 92886-2630

Pharmacist License No. RPH 36445

Respondent.

Case No. 2885

OAH No. L-2006030837

DECISION AND ORDER

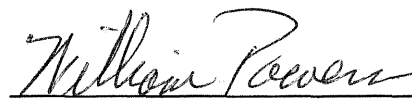
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board Of Pharmacy, as its Decision in this matter.

This Decision shall become effective on December 8, 2006.

It is so ORDERED November 8, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

Exhibit A
Accusation No. 2885

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN A. RUFF, State Bar No. 115869
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) 645-2077
Facsimile: (619) 645-2061

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2885

12 TIMOTHY GRUBB
13 18792 Haven Lane
14 Yorba Linda, CA 92886-2630

A C C U S A T I O N

15 Pharmacist License No. RPH 36445

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

22 2. On or about August 17, 1981, the Board of Pharmacy issued Pharmacist License
23 Number RPH 36445 to Timothy Grubb (Respondent). The Pharmacist License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on February 28,
25 2007, unless renewed.

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JURISDICTION

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

4. Section 4301 of the Code provides, in part:

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

. . . .

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

. . . .

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

. . . .

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

. . . .

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

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1 5. Section 4060 of the Code provides, in part:

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"

4 6. Section 4081 of the Code provides, in part:

5 "(a) All records of manufacture and of sale, acquisition, or disposition of
6 dangerous drugs or dangerous devices shall be at all times during business hours open to
7 inspection by authorized officers of the law, and shall be preserved for at least three years from
8 the date of making. A current inventory shall be kept by every manufacturer, wholesaler,
9 pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian,
10 laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked
11 certificate, license, permit, registration, or exemption under Division 2 (commencing with
12 Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000)
13 of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or
14 dangerous devices.

15 (b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary
16 food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee-
17 in-charge, for maintaining the records and inventory described in this section.

18 (c) The pharmacist-in-charge or exemptee-in-charge shall not be criminally
19 responsible for acts of the owner, officer, partner, or employee that violate this section and of
20 which the pharmacist-in-charge or exemptee-in-charge had no knowledge, or in which he or she
21 did not knowingly participate."

22 7. Section 4059 of the Code provides, in part:

23 (a) A person may not furnish any dangerous drug, except upon the prescription of
24 a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any
25 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or
26 veterinarian."

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1 The circumstances are as follows:

2 13. In or about January 2004 through June 2004, Respondent, on one or more
3 occasions, self-administered Lortab-10, Lortab Elixir and/or Hydromet Syrup that he took from
4 the Placentia Linda Hospital pharmacy without a prescription or authorization.

5 THIRD CAUSE FOR DISCIPLINE

6 (Furnishing Controlled Substances Without a Prescription)

7 14. Respondent is subject to disciplinary action pursuant to Code section 4059 and
8 Code sections 4301(j) and (o) (based on his violation of Health and Safety Code section
9 11158(a)). The circumstances are as follows:

10 15. In or about January 2004 through June 2004, Respondent, on one or more
11 occasions, furnished Lortab-10, Lortab Elixir and/or Hydromet Syrup to himself from the
12 Placentia Linda Hospital pharmacy supply without a prescription or authorization.

13 FOURTH CAUSE FOR DISCIPLINE

14 (Failure to Maintain Adequate Records)

15 16. Respondent is subject to disciplinary action pursuant to Code sections 4081,
16 4301(o) and California Code of Regulations, Title 16, section 1718. The circumstances are as
17 follows:

18 17. Between in or about January 2004 and June 2004, Respondent failed to maintain
19 adequate records regarding the disposition of Lortab-10, Lortab Elixir and/or Hydromet Syrup in
20 the Placentia Linda Hospital pharmacy.

21 FIFTH CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct)

23 18. Respondent is subject to disciplinary action pursuant to Code section 4301 in that
24 he committed acts constituting unprofessional conduct as more particularly set forth in
25 paragraphs 10 through 17 above.

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