

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

In the Matter of the Statement of Issues Against:

Case No. 3998

**ORLANDO RAY GARCIA
5112 Sepulveda Blvd, #112
Sherman Oaks, CA 91403**

**Applicant for Registration as an Intern
Pharmacist
Applicant for Pharmacist Licensure**

Respondent.

DECISION AND ORDER

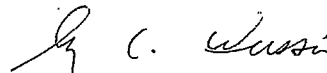
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 9, 2012.

It is so ORDERED on February 8, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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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 Statement of Issues
Against:

Case No. 3998

12 **ORLANDO RAY GARCIA**
13 **5112 Sepulveda Blvd, #112**
14 **Sherman Oaks, CA 91403**
15 **Applicant for Registration as an Intern**
Pharmacist
Applicant for Pharmacist Licensure

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Respondent.

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Pharmacy (Board) of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 instant matter pending before the Board.

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board. She brought
25 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
26 Attorney General of the State of California, by Rene Judkiewicz, Deputy Attorney General.

27 2. Respondent Orlando Ray Garcia (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

1 APPLICATIONS

2 3. On or about September 7, 2010, Respondent filed an application for registration as an
3 intern pharmacist dated September 2, 2010, with the Board to obtain Registration as an Intern
4 Pharmacist. The Board denied the application on October 26, 2010.

5 4. On or about October 12, 2010, Respondent filed an application for pharmacist
6 licensure dated September 30, 2010, with the Board to obtain licensure as a pharmacist. The
7 Board denied the application on November 17, 2010.

8 JURISDICTION

9 5. Statement of Issues No. 3998 was filed before the Board, Department of Consumer
10 Affairs, and is currently pending against Respondent. The Statement of Issues and all other
11 statutorily required documents were properly served on Respondent on June 10, 2011. A copy of
12 Statement of Issues No. 3998 is attached as exhibit A and incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 6. Respondent has carefully read, and understands the charges and allegations in
15 Statement of Issues No. 3998. Respondent has also carefully read, and understands the effects of
16 this Stipulated Settlement and Disciplinary Order.

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

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

26 CULPABILITY

27 9. Respondent admits the truth of each and every charge and allegation in Statement of
28 Issues No. 3998.

1 10. Respondent agrees that his Application for Registration as an Intern Pharmacist and
2 his Application for Pharmacist Licensure are subject to denial, and he agrees to be bound by the
3 Board's probationary terms as set forth in the Disciplinary Order below.

4 CONDITIONS FOR AGREEMENT

5 11. This stipulation shall be subject to approval by the Board. Respondent understands
6 and agrees that counsel for Complainant and the Board staff may communicate directly with the
7 Board regarding this stipulation and settlement, without notice to or participation by Respondent.
8 By signing the stipulation, Respondent understands and agrees that he may not withdraw his
9 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it.
10 If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and
11 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible
12 in any legal action between the parties, and the Board shall not be disqualified from further action
13 by having considered this matter.

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

17 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
20 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
21 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
22 writing executed by an authorized representative of each of the parties.

23 14. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following
25 Disciplinary Order:

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Respondent Orlando Ray Garcia's Application for
3 Registration as an Intern Pharmacist be granted, that his registration be issued and immediately
4 revoked, that the revocation be stayed, that Respondent be placed on two years' probation on his
5 intern registration with the following terms and conditions, that after successful completion of the
6 intern registration probation, Respondent's intern registration be cancelled automatically, that
7 upon Respondent's satisfaction of all probation terms and conditions required for the intern
8 pharmacist registration and upon Respondent's satisfaction of all statutory and regulatory
9 requirements for issuance of a license, a pharmacist license be issued to Respondent and
10 immediately revoked, that the revocation be stayed, and that Respondent be placed on five years'
11 probation on his pharmacist license with the following terms and conditions.

12 1. **Obey All Laws**

13 Respondent shall obey all state and federal laws and regulations.

14 Respondent shall report any of the following occurrences to the Board, in writing, within
15 seventy-two (72) hours of such occurrence:

- 16 • an arrest or issuance of a criminal complaint for violation of any provision of the
17 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
18 substances laws;
- 19 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
20 criminal complaint, information or indictment;
- 21 • a conviction of any crime;
- 22 • discipline, citation, or other administrative action filed by any state or federal agency
23 which involves Respondent's pharmacist intern registration, or which is related to the
24 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
25 or charging for any drug, device or controlled substance.

26 Failure to timely report such occurrence shall be considered a violation of probation.

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1 **2. Report to the Board**

2 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
3 designee. The report shall be made either in person or in writing, as directed. Among other
4 requirements, Respondent shall state in each report under penalty of perjury whether there has
5 been compliance with all the terms and conditions of probation. Failure to submit timely reports
6 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
7 in submission of reports as directed may be added to the total period of probation. Moreover, if
8 the final probation report is not made as directed, probation shall be automatically extended until
9 such time as the final report is made and accepted by the Board.

10 **3. Interview with the Board**

11 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
12 with the Board or its designee, at such intervals and locations as are determined by the Board or
13 its designee. Failure to appear for any scheduled interview without prior notification to Board
14 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
15 during the period of probation, shall be considered a violation of probation.

16 **4. Cooperate with Board Staff**

17 Respondent shall cooperate with the Board's inspection program and with the Board's
18 monitoring and investigation of Respondent's compliance with the terms and conditions of his
19 probation. Failure to cooperate shall be considered a violation of probation.

20 **5. Continuing Education During Pharmacist Probationary Period**

21 Following the successful completion of Respondent's registered pharmacist intern
22 probation, and during Respondent's pharmacist probationary period, Respondent shall provide
23 evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its
24 designee.

25 **6. Notice to Employers**

26 During the period of probation, Respondent shall notify all present and prospective
27 employers of the decision in Case Number 3998 and the terms, conditions and restrictions
28 imposed on Respondent by the decision, as follows:

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
3 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
4 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
5 individual(s) has/have read the decision in Case Number 3998, and terms and conditions imposed
6 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
7 supervisor(s) submit timely acknowledgment(s) to the Board.

8 If Respondent works for or is employed by or through a pharmacy employment service,
9 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
10 licensed by the Board of the terms and conditions of the decision in Case Number 3998 in
11 advance of the Respondent commencing work at each licensed entity. A record of this
12 notification must be provided to the Board upon request.

13 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
14 (15) days of Respondent undertaking any new employment by or through a pharmacy
15 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
16 service to report to the Board in writing acknowledging that he has read the decision in case
17 number 3998 and the terms and conditions imposed thereby. It shall be Respondent's
18 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
19 acknowledgment(s) to the Board.

20 Failure to timely notify present or prospective employer(s) or to cause that/those
21 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
22 probation.

23 "Employment" within the meaning of this provision shall include any full-time,
24 part-time, temporary, relief or pharmacy management service as a pharmacist intern
25 during the pharmacist intern probationary period or any position for which a
26 pharmacist intern registration is a requirement or criterion for employment, whether
27 the respondent is an employee, independent contractor or volunteer, during the
28 pharmacist intern probationary period.

1 “Employment” within the meaning of this provision shall include any full-time,
2 part-time, temporary, relief or pharmacy management service as a pharmacist during
3 the pharmacist probationary period or any position for which pharmacist licensure is a
4 requirement or criterion for employment, whether the respondent is an employee,
5 independent contractor or volunteer, during the pharmacist probationary period.

6
7 **7. No Supervision of Interns, Serving as Designated Representative-in-
Charge, or Serving as a Consultant**

8 During the period of probation, Respondent shall not supervise any intern pharmacist, be
9 the pharmacist-in-charge or the designated representative-in-charge of any entity licensed by the
10 Board; nor shall Respondent serve as a consultant unless otherwise specified in this order.
11 Assumption of any such unauthorized supervision responsibilities shall be considered a violation
12 of probation.

13 **8. Probation Monitoring Costs**

14 Respondent shall pay any costs associated with probation monitoring as determined by the
15 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
16 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
17 shall be considered a violation of probation.

18 **9. Status of Pharmacist Intern Registration**

19 Respondent shall, at all times while on probation as a registered pharmacist intern, maintain
20 an active, current pharmacist intern registration with the Board, including any period during
21 which suspension or probation is tolled. Failure to maintain an active, current registration shall
22 be considered a violation of probation.

23 If Respondent’s pharmacist intern registration expires or is cancelled by operation of law or
24 otherwise at any time during the period of probation, including any extensions thereof due to
25 tolling or otherwise, upon renewal or reapplication Respondent’s pharmacist intern registration
26 shall be subject to all terms and conditions of this probation not previously satisfied.

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1 **10. Status of Pharmacist License**

2 Respondent shall, at all times while on probation as a licensed pharmacist, maintain an
3 active, current license with the Board, including any period during which suspension or probation
4 is tolled. Failure to maintain an active, current license shall be considered a violation of
5 probation.

6 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
7 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
8 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
9 probation not previously satisfied.

10 **11. Pharmacist Intern Registration Surrender While on Probation/Suspension**

11 Following the effective date of this decision, and during the pharmacist intern probationary
12 period, should Respondent cease practice as a pharmacist intern registrant due to retirement or
13 health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may
14 tender his intern registration to the Board for surrender. The Board or its designee shall have the
15 discretion whether to grant the request for surrender or take any other action it deems appropriate
16 and reasonable. Upon formal acceptance of the surrender of the intern registration, Respondent
17 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
18 record of discipline and shall become a part of Respondent's license history with the Board.

19 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall intern
20 registration to the Board within ten (10) days of notification by the Board that the surrender is
21 accepted. Respondent may not reapply for any intern registration from the Board for three (3)
22 years from the effective date of the surrender. Respondent shall meet all requirements applicable
23 to the intern registration sought as of the date the application for that registration is submitted to
24 the Board, including any outstanding costs.

25 **12. Pharmacist License Surrender While on Probation/Suspension**

26 Following the effective date of the pharmacist licensure probationary period, should
27 Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms
28 and conditions of probation, Respondent may tender his license to the Board for surrender. The

1 Board or its designee shall have the discretion whether to grant the request for surrender or take
2 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
3 the license, Respondent will no longer be subject to the terms and conditions of probation. This
4 surrender constitutes a record of discipline and shall become a part of Respondent's license
5 history with the Board.

6 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
7 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
8 Respondent may not reapply for any license from the board for three (3) years from the effective
9 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
10 of the date the application for that license is submitted to the Board, including any outstanding
11 costs.

12 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
13 **Employment**

14 Respondent shall notify the Board in writing within ten (10) days of any change of
15 employment. Said notification shall include the reasons for leaving, the address of the new
16 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
17 shall further notify the Board in writing within ten (10) days of a change in name, residence
18 address, mailing address, or phone number.

19 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
20 phone number(s) shall be considered a violation of probation.

21 **14. Tolling of Probation**

22 Except during periods of suspension, Respondent shall, at all times while on pharmacist
23 intern probation, be employed as a pharmacist intern in California for a minimum of 40 hours per
24 calendar month, and except during periods of suspension, Respondent shall, at all times while on
25 pharmacist probation, be employed as a pharmacist in California for a minimum of 40 hours per
26 calendar month. Any month during which this minimum is not met shall toll the period of
27 probation, i.e., the period of probation shall be extended by one month for each month during
28

1 which this minimum is not met. During any such period of tolling of probation, Respondent must
2 nonetheless comply with all terms and conditions of probation.

3 Should Respondent, regardless of residency, for any reason (including vacation) cease
4 practicing as a pharmacist intern for a minimum of 40 hours per calendar month in California, or
5 should Respondent, regardless of residency, for any reason (including vacation) cease practicing
6 as a pharmacist for a minimum of 40 hours per calendar month in California, Respondent must
7 notify the Board in writing within ten (10) days of the cessation of practice, and must further
8 notify the Board in writing within ten (10) days of the resumption of practice. Any failure to
9 provide such notification(s) shall be considered a violation of probation.

10 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
11 provisions of this condition for a total period, counting consecutive and non-consecutive months,
12 exceeding thirty-six (36) months.

13 "Cessation of practice" means any calendar month during which Respondent is
14 not practicing as a pharmacist intern or a pharmacist for at least 40 hours, as defined
15 by Business and Professions Code section 4000 etcetera. "Resumption of practice"
16 means any calendar month during which Respondent is practicing as a pharmacist
17 intern or a pharmacist for at least 40 hours as defined by Business and Professions
18 Code section 4000 etcetera.

19 **15. Violation of Probation**

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

25 If Respondent violates probation in any respect, the Board, after giving Respondent notice
26 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
27 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
28 violation thereof may lead to automatic termination of the stay and/or revocation of the

1 pharmacist intern registration or the pharmacist licensure. If a petition to revoke probation or an
2 accusation is filed against Respondent during probation, the Board shall have continuing
3 jurisdiction and the period of probation shall be automatically extended until the petition to
4 revoke probation or accusation is heard and decided.

5 **16. Completion of Probation**

6 Upon written notice by the Board or its designee indicating successful completion of both
7 the pharmacist intern probation and the pharmacist probation, Respondent's pharmacist licensure
8 will be fully restored.

9 **17. Pharmacist Recovery Program (PRP)**

10 Within thirty (30) days of the effective date of this decision, Respondent shall contact the
11 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
12 successfully participate in, and complete the treatment contract and any subsequent addendums as
13 recommended and provided by the PRP and as approved by the Board or its designee. The costs
14 for PRP participation shall be borne by Respondent.

15 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
16 of the effective date of this decision is no longer considered a self-referral under Business and
17 Professions Code section 4362, subdivision (c)(2). Respondent shall successfully participate in
18 and complete his current contract and any subsequent addendums with the PRP.

19 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
20 the treatment contract and/or any addendums, shall be considered a violation of probation.

21 Probation shall be automatically extended until Respondent successfully completes the
22 PRP. Any person terminated from the PRP program shall be automatically suspended by the
23 Board. Respondent may not resume the practice of pharmacy until notified by the Board in
24 writing.

25 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
26 licensed practitioner as part of a documented medical treatment shall result in the automatic
27 suspension of practice by Respondent as a registered intern pharmacist, and shall be considered a
28 violation of probation. Respondent may not resume practice as a registered intern pharmacist

1 until notified by the Board in writing.

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

11 During suspension, Respondent shall not engage in any activity that requires the
12 professional judgment of a pharmacist intern. Respondent shall not direct or control any aspect of
13 the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
14 designated representative for any entity licensed by the Board.

15 Failure to comply with this suspension shall be considered a violation of probation.

16 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
17 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
18 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

19 **18. Random Drug Screening**

20 Respondent, at his own expense, shall participate in random testing, including but not
21 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
22 screening program as directed by the board or its designee. Respondent may be required to
23 participate in testing for the entire probation period and the frequency of testing will be
24 determined by the Board or its designee. At all times, Respondent shall fully cooperate with the
25 Board or its designee, and shall, when directed, submit to such tests and samples for the detection
26 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or
27 its designee may direct. Failure to timely submit to testing as directed shall be considered a
28 violation of probation. Upon request of the Board or its designee, Respondent shall provide

1 documentation from a licensed practitioner that the prescription for a detected drug was
2 legitimately issued and is a necessary part of the treatment of Respondent. Failure to timely
3 provide such documentation shall be considered a violation of probation. Any confirmed positive
4 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a
5 documented medical treatment shall be considered a violation of probation and shall result in the
6 automatic suspension of Respondent's registered pharmacist internship or pharmacist licensure.
7 Respondent may not resume the practice of a registered pharmacist intern or a pharmacist until
8 notified by the Board in writing.

9 During suspension, Respondent shall not enter any pharmacy area or any portion of the
10 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
11 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
12 or controlled substances are maintained. Respondent shall not practice as a pharmacist intern or
13 as a pharmacist, or do any act involving drug selection, selection of stock, manufacturing,
14 compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be
15 a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing
16 or dispensing of dangerous drugs and controlled substances. Respondent shall not resume
17 practice until notified by the Board.

18 During suspension, Respondent shall not engage in any activity that requires the
19 professional judgment of a pharmacist intern or a pharmacist. Respondent shall not direct or
20 control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a
21 pharmacy technician or a designated representative for any entity licensed by the Board.

22 Subject to the above restrictions, Respondent may continue to own or hold an interest in
23 any licensed premises in which he holds an interest at the time this decision becomes effective
24 unless otherwise specified in this order.

25 Failure to comply with this suspension shall be considered a violation of probation.

26 **19. Abstain from Drugs and Alcohol Use**

27 Respondent shall completely abstain from the possession or use of alcohol, controlled
28 substances, dangerous drugs and their associated paraphernalia except when the drugs are

1 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
2 request of the Board or its designee, Respondent shall provide documentation from the licensed
3 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
4 treatment of Respondent. Failure to timely provide such documentation shall be considered a
5 violation of probation. Respondent shall ensure that he is not in the same physical location as
6 individuals who are using illicit substances even if Respondent is not personally ingesting the
7 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
8 not supported by the documentation timely provided, and/or any physical proximity to persons
9 using illicit substances, shall be considered a violation of probation.

10 **20. Community Services Program**

11 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
12 Board or its designee, for prior approval, a community service program in which Respondent
13 shall provide free health-care related services on a regular basis to a community or charitable
14 facility or agency for at least 100 hours per year while on probation. Within thirty (30) days of
15 Board approval thereof, Respondent shall submit documentation to the Board demonstrating
16 commencement of the community service program. A record of this notification must be
17 provided to the Board upon request. Respondent shall report on progress with the community
18 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
19 program shall be considered a violation of probation.

20 **21. Intern Pharmacist Experience**

21 Within ninety (90) days of the effective date of this decision, Respondent shall submit to
22 the Board or its designee, for prior approval, a pharmacy intern training program consisting of
23 900 hours to be served as an intern pharmacist in a community and/or institutional pharmacy as
24 directed. The Board will accept 600 hours from an out-of-state internship in Colorado.

25 **22. Supervised Practice**

26 During the period of probation, Respondent shall practice only under the supervision of a
27 licensed pharmacist not on probation with the Board. Upon and after Respondent has
28 successfully completed his 1,500 hours of intern experience and has been granted his pharmacist

1 license, Respondent shall not practice pharmacy and his license shall be automatically suspended
2 until a supervisor is approved by the Board or its designee. The supervision shall be, as required
3 by the board or its designee, either:

4 Continuous – At least 75% of a work week

5 Substantial - At least 50% of a work week

6 Partial - At least 25% of a work week

7 Daily Review – Supervisor’s review of probationer’s daily activities within 24 hours

8 Within thirty (30) days of licensure and employment as a pharmacist, Respondent shall
9 have his supervisor submit notification to the Board in writing stating that the supervisor has read
10 the decision in Case Number 3998 and is familiar with the required level of supervision as
11 determined by the Board or its designee. It shall be Respondent’s responsibility to ensure that his
12 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
13 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
14 acknowledgements to the Board shall be considered a violation of probation.

15 If Respondent changes employment, it shall be Respondent’s responsibility to ensure that
16 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
17 the Board. Respondent shall have his new supervisor, within fifteen (15) days after employment
18 commences, submit notification to the Board in writing stating the direct supervisor and
19 pharmacist-in-charge have read the decision in Case Number 3998 and is familiar with the level
20 of supervision as determined by the Board. Respondent shall not practice pharmacy and his
21 license shall be automatically suspended until the Board or its designee approves a new
22 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
23 acknowledgements to the Board shall be considered a violation of probation.

24 Within ten (10) days of leaving employment, Respondent shall notify the board in writing.

25 During suspension, Respondent shall not enter any pharmacy area or any portion of the
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
27 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
28 or controlled substances are maintained. Respondent shall not practice pharmacy or do any act

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
3 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until notified by the Board.

5 During suspension, Respondent shall not engage in any activity that requires the
6 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
7 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
8 designated representative for any entity licensed by the Board.

9 Failure to comply with this suspension shall be considered a violation of probation.

10 **23. No Ownership of Licensed Premises**

11 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
12 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
13 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
14 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
15 days following the effective date of this decision and shall immediately thereafter provide written
16 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
17 documentation thereof shall be considered a violation of probation.

18 **24. Ethics Course**

19 Within sixth (60) calendar days of the pharmacist probationary period, Respondent shall
20 enroll in a course of ethics, at Respondent's expense, approved in advance by the Board or its
21 designee. Failure to initiate the course during the first year of the pharmacist license probation,
22 and complete it within the second year of probation, is a violation of the pharmacist license
23 probation.

24 Respondent shall submit a certificate of completion to the Board or its designee within five
25 days after completing the course.

26 ACCEPTANCE

27 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
28 stipulation and the effect it will have on my Application for Registration as an Intern Pharmacist

1 and my Application for Pharmacist Licensure. I enter into this Stipulated Settlement and
2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Board of Pharmacy:

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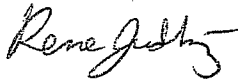
DATED: _____
ORLANDO RAY GARCIA
Respondent

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: 10/26/11

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General


RENE JUDKIEWICZ
Deputy Attorney General
Attorneys for Complainant

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2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Board of Pharmacy.

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DATED: 11/1/11 
ORLANDO RAY GARCIA
Respondent

ENDORSEMENT

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RENE JUDKIEWICZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 3998

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RENE JUDKIEWICZ
Deputy Attorney General
4 State Bar No. 141773
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2537
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

10 In the Matter of the Statement of Issues
11 Against:
12 **ORLANDO RAY GARCIA**
13 **5112 Sepulveda Blvd., #112**
14 **Sherman Oaks, CA 91403**
15 **Applicant for Registration as an Intern**
Pharmacist
16 **Applicant for Licensure as a Pharmacist**

Respondent.

Case No. 3998

STATEMENT OF ISSUES

17
18 Complainant alleges:

19 PARTIES

20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
22 Affairs.

23 2. On or about September 7, 2010, the Board received an Application for Registration as
24 an Intern Pharmacist from Orlando Ray Garcia (Respondent). On or about September 2, 2010,
25 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on October 26, 2010.

27 ///
28 ///

1 7. Section 475 of the Code states, in pertinent part:
2 “(a) Notwithstanding any other provisions of this code, the provisions of this division shall
3 govern the denial of licenses on the grounds of:

- 4
5 “(2) Conviction of a crime.
6
7 “(4) Commission of any act which, if done by a licentiate of the . . . profession
8 in question, would be grounds for suspension or revocation of license.”

9 8. Section 480 of the Code states, in pertinent part, that a board may deny a license if the
10 applicant has been convicted of a crime substantially related to the qualifications, functions or
11 duties of the profession for which application is made, or has committed any act which if done by
12 a licentiate would be grounds for suspension or revocation of a license.

13 9. Section 4022 of the Code defines the term “dangerous drug” as including any drug
14 “that by federal or state law can be lawfully dispensed only on prescription”

15 10. Section 4301 of the Code states, in pertinent part:
16 “The board shall take action against any holder of a license who is guilty of unprofessional
17 conduct Unprofessional conduct shall include, but is not limited to, any of the following:

- 18
19 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
20 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
21 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
22 to the extent that the use impairs the ability of the person to conduct with safety to the public the
23 practice authorized by the license.

- 24
25 “(k) The conviction of more than one misdemeanor or any felony involving the use,
26 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
27 combination of those substances.

28 ///

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

18

19 “(n) The revocation, suspension, or other discipline by another state of a license to practice
20 pharmacy . . . or do any other act for which a license is required by this chapter.”

21 11. California Code of Regulations, title 16, section 1770, states, in pertinent part:

22 “For the purpose of denial . . . of a personal . . . license pursuant to Division 1.5
23 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
24 considered substantially related to the qualifications, functions or duties of a licensee or registrant
25 if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to
26 perform the functions authorized by his license or registration in a manner consistent with the
27 public health, safety, or welfare.”

28 ///

1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Substantially Related Convictions)

3 12. Respondent's applications are subject to denial under Code sections 475, subdivision
4 (a)(2), 480 and 4301, subdivision (l) in that Respondent was convicted of crimes substantially
5 related to the qualifications, functions and duties of an intern pharmacist and a pharmacist, as
6 defined in section 1770 of title 16 of the California Code of Regulations. The circumstances are
7 as follows:

8 a. On or about February 16, 2007, in the criminal proceedings entitled *People v. Garcia*
9 (Super. Ct. Los Angeles County, 2007, No. 7BR0029401), Respondent pleaded no contendere to
10 and was convicted of the misdemeanor of violating Vehicle Code section 23152, subdivision (a),
11 driving under the influence of any alcoholic beverage or drug, or under the combined influence of
12 any alcoholic beverage and drug. The factual basis for the conviction was that on or about
13 January 3, 2007, Respondent was arrested for driving under the influence of Ambien.

14 b. On or about May 22, 2002, in criminal proceedings in Colorado Arapahoe County
15 District Court, Case No. 02CR2353, Respondent pleaded guilty to and was convicted of
16 possession of a controlled substance. The factual basis for the conviction was that on or about
17 May 1, 2002, Respondent sought Vicodin illegally.

18 SECOND CAUSE FOR DENIAL OF APPLICATION

19 (Substance Abuse Convictions)

20 13. Respondent's applications are subject to denial under Code sections 475, subdivision
21 (a)(2), 480 and 4301, subdivision (k) in that Respondent was convicted of more than one
22 misdemeanor or felony involving the use, consumption or self-administration of any dangerous
23 drug or alcoholic beverage. Complainant refers to and incorporates by reference the allegations
24 set forth in subparagraphs 12a and 12 b, above, as though set forth fully therein. In addition,
25 Respondent was convicted of the following substance abuse crimes:

26 a. In or about 1995, Respondent was convicted in Santa Barbara County Superior Court
27 of driving under the influence.

1 b. In or about 1990, Respondent was convicted in Los Angeles County Superior Court
2 of driving under the influence.

3 THIRD CAUSE FOR DENIAL OF APPLICATION

4 (Substance Abuse)

5 14. Respondent's applications are subject to denial under Code sections 480 and
6 4301, subdivision (h) in that Respondent used controlled substances, dangerous drugs and/or
7 alcoholic beverages to the extent or in a manner to be dangerous to himself or others, or to the
8 extent that the use impaired his ability to safely practice pharmacy. Complainant refers to and
9 incorporates by reference the allegations set forth in subparagraphs 12a, 12b, 13a and 13b above,
10 as though set forth fully therein.

11 FOURTH CAUSE FOR DENIAL OF APPLICATION

12 (Out-of-State Discipline)

13 15. Respondent's applications are subject to denial under Code sections 141, subdivision
14 (a), 475, subdivision (a)(4), 480 and 4301, subdivision (n) in that is the subject of out-of-state
15 discipline concerning a pharmacist intern license. The circumstances are as follows:

16 a. In or about January 2010, the Colorado State Board of Pharmacy issued an Order
17 approving and accepting a Stipulation and Final Agency Order accepted and agreed by
18 Respondent on or about December 28, 2009 in a disciplinary action entitled *In the Matter of*
19 *Disciplinary Proceedings Regarding the Application for a Pharmacist Intern License in the State*
20 *of Colorado of Orlando R. Garcia, Intern Application*, Colorado Board of Pharmacy Case No.
21 2010-001371.

22 b. The Stipulation and Final Agency Order's findings included that Respondent had a
23 prior Colorado license to practice as a pharmacist, issued in 1999, that was revoked due to his
24 addiction to controlled substances and his presenting a fraudulent prescription order for a
25 controlled substance. He subsequently applied twice to be a pharmacist intern in Colorado. In
26 2002, Respondent pleaded guilty in Colorado to possession of a Schedule II controlled substance,
27 and in 2007, he pleaded nolo contendere to being under the influence of alcohol/drugs in a
28

1 vehicle. Complainant refers to and incorporates by reference the allegations set forth in
2 subparagraphs 12a and 12 b, above, as though set forth fully therein.

3 c. The Stipulation and Final Agency Order granted a restricted pharmacy intern license
4 subject to suspension and conditional reinstatement, and 10 years' probation upon termination of
5 the suspension and conditional reinstatement, with terms and conditions including satisfactory
6 completion of a Colorado Board-approved peer health assistance diversion program, and urine or
7 blood tests.

8 PRAYER

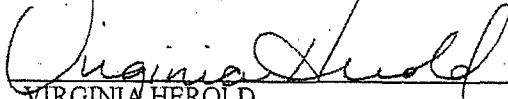
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Denying the application of Respondent Orlando Ray Garcia for Registration as an
12 Intern Pharmacist;

13 2. Denying the application of Respondent for Pharmacist Licensure and Examination;
14 and

15 2. Taking such other and further action as deemed necessary and proper.

16 DATED: 6/2/11



17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
State of California
Complainant

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