



California State Board of Pharmacy

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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

RECEIVED
CALIFORNIA BOARD OF PHARMACY
DEC 26 PM 2:46

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Lamy GRABEL</u>	Case No. <u>AC4120</u>
Address of Record: <u>4 Cindy Ln</u> <u>Alamo, CA 94507</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC4120, I hereby request to surrender my license, License No. 28046. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

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

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

[Signature]
Applicant's Signature

[Signature]
Executive Officer's Approval

12-13-13
Date

1/15/14
Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

Case No. 4120

LARRY ALAN GRABEL

4 Cindy Lane
Alamo, CA 94507

Pharmacist License No. RPH 28046

Respondent.

DECISION AND ORDER

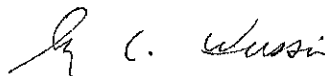
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 11, 2013.

It is so ORDERED on December 12, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4120

11 **LARRY ALAN GRABEL**
12 **4 Cindy Lane**
13 **Alamo, CA 94507**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

13 **Pharmacist License No. RPH 28046**

14 Respondent.

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

19 PARTIES

20 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
21 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
22 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

23 2. Respondent Larry Alan Grabel (Respondent) is representing himself in this
24 proceeding and has chosen not to exercise his right to be represented by counsel.

25 3. On or about November 17, 1972, the Board of Pharmacy issued Pharmacist License
26 No. RPH 28046 to Larry Alan Grabel (Respondent). The Pharmacist License was in full force
27 and effect at all times relevant to the charges brought in Accusation No. 4120 and will expire on
28 June 30, 2013, unless renewed.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 28046, issued to Larry Alan
3 Grabel (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on
4 probation for five (5) years on the following terms and conditions.

5 1. **Suspension**

6 As part of probation, Respondent is suspended from the practice of pharmacy for two
7 hundred seventy (270) days beginning on the effective date of this decision.

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

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

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

21 2. **Tolling of Suspension**

22 During the period of suspension, Respondent shall not leave California for any period
23 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
24 of ten (10) days during suspension shall be considered a violation of probation.

25 Moreover, any absence from California during the period of suspension exceeding ten (10)
26 days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over
27 ten (10) days Respondent is absent from California. During any such period of tolling of
28 suspension, Respondent must nonetheless comply with all terms and conditions of probation.

1 Respondent must notify the board in writing within ten (10) days of departure, and must
2 further notify the board in writing within ten (10) days of return. The failure to provide such
3 notification(s) shall constitute a violation of probation. Upon such departure and return,
4 Respondent shall not resume the practice of pharmacy until notified by the board that the period
5 of suspension has been satisfactorily completed.

6 **3. Obey All Laws**

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

8 Respondent shall report any of the following occurrences to the board, in writing, within
9 seventy-two (72) hours of such occurrence:

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

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

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

25 Respondent shall cooperate with the board's inspection program and with the board's
26 monitoring and investigation of Respondent's compliance with the terms and conditions of his
27 probation. Failure to cooperate shall be considered a violation of probation.

28 ///

1 **6. 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 **7. Continuing Education**

11 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
12 pharmacist as directed by the board or its designee.

13 **8. Status of License**

14 Respondent shall, at all times while on probation, maintain an active, current license with
15 the board, including any period during which suspension or probation is tolled. Failure to
16 maintain an active, current license shall be considered a violation of probation.

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

21 **9. Notification of Change in Employment, Name, Address(es), or Phone(s)**

22 Respondent shall notify the board in writing within ten (10) days of any change of
23 employment. Said notification shall include the reasons for leaving, the address of the new
24 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
25 shall further notify the board in writing within ten (10) days of a change in name, residence
26 address, mailing address, or phone number.

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

1 **10. Employment Requirement: Tolling of Probation; Absence from State**

2 Except during periods of suspension, Respondent shall, at all times while on probation, be
3 employed as a pharmacist in California for a minimum of twenty (20) hours per calendar month.
4 Any month during which this minimum is not met tolls the period of probation, i.e., the period of
5 probation is extended by one month for each month in which the minimum is not met. During
6 any such period of tolling, Respondent must comply with all terms and conditions of probation.

7 Should Respondent, regardless of residency, for any reason (including vacation) cease
8 practicing as a pharmacist for a minimum of twenty (20) hours per calendar month in California,
9 Respondent must notify the board in writing within ten (10) days of the cessation of practice, and
10 must further notify the board in writing within ten (10) days of the resumption of practice. Any
11 failure to provide such notification(s) shall be considered a violation of probation.

12 Respondent must notify the board in writing at least ten (10) days prior to any absence from
13 California, regardless of purpose (including vacation), in excess of twenty (20) days. Unless such
14 absence is pre-approved by the board or its designee, any absence exceeding twenty (20) days
15 shall toll the period of probation, i.e., the period of probation shall be extended by one day for
16 each day in excess of twenty (20) that Respondent is absent without pre-approval. Respondent
17 must further notify the board in writing within (10) days of his return. Any failure to provide
18 such notification(s) shall be considered a violation of probation.

19 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
20 provisions of this condition for a total period, counting consecutive and non-consecutive months
21 or smaller time periods, exceeding thirty-six (36) months.

22 "Cessation of practice" means any calendar month during which Respondent is
23 not practicing as a pharmacist as defined by Business and Professions Code section
24 4000 et seq. for at least twenty (20) hours,. "Resumption of practice" means any
25 calendar month during which Respondent is practicing as a pharmacist as defined by
26 Business and Professions Code section 4000 et seq. for at least twenty (20) hours.

27 **11. Notice to Employers**

28 During the period of probation, Respondent shall notify all present and prospective
employers of the decision in case number 4120 and the terms, conditions and restrictions 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 4120, 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 4120 in advance
11 of the Respondent commencing work at each licensed entity. A record of this notification must
12 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 employment by or through a pharmacy employment
15 service, Respondent shall cause his direct supervisor with the pharmacy employment service to
16 report to the board in writing acknowledging that he has read the decision in case number 4120
17 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure
18 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

19 Failure to timely notify present or prospective employer(s) or to cause employer(s) to
20 submit timely acknowledgments to the board shall be considered a violation of probation.

21 "Employment" within the meaning of this provision shall include any full-time,
22 part-time, temporary, relief or pharmacy management service as a pharmacist or any
23 position for which a pharmacist license is a requirement or criterion for employment,
whether the Respondent is an employee, independent contractor or volunteer.

24 **12. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as
Designated Representative-in-Charge, or Serving as a Consultant**

25 During the period of probation, Respondent shall not supervise any intern pharmacist, be
26 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
27 board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
28 unauthorized supervision responsibilities shall be considered a violation of probation.

1 **13. Supervised Practice**

2 During the period of probation, Respondent shall practice only under the supervision of a
3 licensed pharmacist not on probation with the board. Upon and after the effective date of this
4 decision, Respondent shall not practice pharmacy and his license shall be automatically
5 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
6 as required by the board or its designee, either:

7 Continuous – At least 75% of a work week

8 Substantial - At least 50% of a work week

9 Partial - At least 25% of a work week

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

11 Within thirty (30) days of the effective date of this decision, Respondent shall have his
12 supervisor submit notification to the board in writing stating that the supervisor has read the
13 decision in case number 4120 and is familiar with the required level of supervision as determined
14 by the board or its designee. It shall be the Respondent's responsibility to ensure that his
15 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
16 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
17 acknowledgements to the board shall be considered a violation of probation.

18 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
19 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
20 acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15)
21 days after employment commences, submit notification to the board in writing stating the direct
22 supervisor and pharmacist-in-charge have read the decision in case number 4120 and is/are
23 familiar with the level of supervision as determined by the board. Respondent shall not practice
24 pharmacy and his license shall be automatically suspended until the board or its designee
25 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
26 submit timely acknowledgements to the board shall be considered a violation of probation.

27 During any such suspension, respondent shall not enter any pharmacy area or any portion of
28 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor

1 of drugs licensed by the board, or any manufacturer, or where dangerous drugs and devices or
2 controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
3 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
4 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
5 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
6 and controlled substances. Respondent shall not resume practice until notified by the board.

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

11 Failure to comply with any such suspension shall be considered a violation of probation.

12 **14. No Ownership of Licensed Premises**

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

20 **15. Reimbursement of Board Costs**

21 As a condition precedent to successful completion of probation, Respondent shall pay to the
22 board its costs of investigation and prosecution in the amount of \$8,000.00. Respondent shall be
23 permitted to pay these costs in a payment plan approved by the Board or its designee, so long as
24 full payment is made within fifty-four (54) months of the effective date of this decision. There is
25 to be no deviation from this schedule absent prior written approval by the Board or its designee.
26 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

27 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
28 reimburse the board its costs of investigation and prosecution.

1 **16. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 board each and every year of probation. Such costs shall be payable to the board on a schedule as
4 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
5 be considered a violation of probation.

6 **17. Community Services Program**

7 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
8 board or its designee, for prior approval, a community service program in which Respondent shall
9 provide free health-care related services on a regular basis to a community or charitable facility or
10 agency for at least fifty (50) hours per year for each year of probation (250 hours total). Within
11 thirty (30) days of board approval thereof, Respondent shall submit documentation to the board
12 demonstrating commencement of the community service program. Respondent shall report on
13 progress with the community service program in the quarterly reports. Failure to timely submit,
14 commence, or comply with the program shall be considered a violation of probation.

15 **18. Ethics Course**

16 Within sixty (60) calendar days of the effective date of this decision, Respondent shall, at
17 his own expense, enroll in a course in ethics approved in advance by the board or its designee.

18 Failure to initiate the course during the first year of probation, and complete it within the
19 second year of probation, shall be considered a violation of probation.

20 Respondent shall submit a certificate of completion to the board or its designee within five
21 (5) days after completing the course.

22 **19. Remedial Education**

23 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
24 board or its designee, for prior approval, an appropriate program of remedial education related to
25 drug security, corresponding responsibility, and/or record-keeping. The program shall include at
26 least five (5) hours per year for each year of probation (25 hours total), completed at respondent's
27 own expense. All remedial education shall be in addition to, and shall not be credited toward,
28 continuing education (CE) courses used for license renewal purposes.

1 Failure to timely submit or complete the approved remedial education shall be considered a
2 violation of probation. In addition, the period of probation will be automatically extended until
3 such remedial education is successfully completed and written proof, in a form acceptable to the
4 board, is provided to the board or its designee.

5 Following the completion of each course, the board or its designee may require respondent,
6 at his own expense, to take an approved examination to test respondent's knowledge of the
7 course. If respondent does not achieve a passing score on the examination, this failure shall be
8 considered a violation of probation. Any such examination failure shall also require respondent
9 to take another course approved by the board in the same subject area.

10 **20. Separate File of Records**

11 Respondent shall maintain and make available for inspection a separate file of all records
12 pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such
13 file or make it available for inspection shall be considered a violation of probation.

14 **21. License Surrender While on Probation/Suspension**

15 Following the effective date of this decision, including during the period of suspension,
16 should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the
17 terms and conditions of probation, Respondent may tender his license to the board for surrender.
18 The board or its designee shall have the discretion whether to grant the request for surrender or
19 take any other action it deems appropriate and reasonable.

20 Upon formal acceptance of the surrender of the license, Respondent will no longer be
21 subject to the terms and conditions of probation. This surrender constitutes a record of discipline
22 and shall become a part of the Respondent's license history with the board.

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

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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: 10/30/2012

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JOSHUA A. ROOM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4120

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 4120

12 **LARRY ALAN GRABEL**
4 Cindy Lane
Alamo, CA 94507

ACCUSATION

13 **Pharmacist License No. RPH 28046**

14 Respondent.

15 Complainant alleges:

16 PARTIES

17 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

19 2. On or about November 17, 1972, the Board of Pharmacy issued Pharmacist License
20 No. RPH 28046 to Larry Alan Grabel (Respondent). The License was in full force and effect at
21 all times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.
22 Between on or about September 18, 1986 and on or about June 15, 2011, and at all times relevant
23 to the charges brought herein, Respondent was, and/or was listed in Board records as, Pharmacist
24 in Charge (PIC) and co-owner of Bacon East Pharmacy (PHY 33076) in Concord, CA.

25 JURISDICTION

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

1 (b) Failure to exercise or implement his/her best professional judgment or corresponding
2 responsibility with regard to the dispensing or furnishing of controlled substances, dangerous
3 drugs, or dangerous devices, or with regard to the provision of services.

4 (c) Failure to consult appropriate patient, prescription, and other records pertaining to the
5 performance of any pharmacy function.

6 (d) Failure to fully maintain and retain appropriate patient-specific information pertaining
7 to the performance of any pharmacy function.

8 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
9 drug or dangerous device except upon the prescription of an authorized prescriber.

10 10. Section 4059.5 of the Code, in pertinent part, permits ordering/delivery of dangerous
11 drugs or devices only by and to entities licensed by the board and authorized prescribers.

12 11. Section 4113, subdivision (c) of the Code states:

13 "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
14 and federal laws and regulations pertaining to the practice of pharmacy."

15 12. Section 4081 of the Code provides, in pertinent part, that all records of manufacture,
16 sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be kept open to
17 inspection and retained for at least three years, that a current inventory shall be kept by every
18 pharmacy that maintains a stock of dangerous drugs or dangerous devices, and that the owner(s),
19 officer(s), partner(s), and pharmacist in charge or designated representative in charge shall be
20 jointly responsible for maintaining the records and keeping the inventory.

21 13. Section 4105 of the Code requires, in pertinent part, that unless a waiver is granted by
22 the board, all records and other documentation of the acquisition and disposition of dangerous
23 drugs and devices by any entity licensed by the board be retained on the licensed premises, in a
24 readily retrievable form, for three years from the date of making.

25 8. Section 4332 of the Code makes it unlawful for any person: to fail, neglect, or refuse
26 to maintain the records required by Section 4081; or, when called upon by an authorized officer
27 or a member of the board, to fail, neglect, or refuse to produce or provide the records within a
28 reasonable time; or to willfully produce or furnish records that are false:

1 14. California Code of Regulations, title 16, section 1718, states:

2 “‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions
3 Code shall be considered to include complete accountability for all dangerous drugs handled by
4 every licensee enumerated in Sections 4081 and 4332.

5 “The controlled substances inventories required by Title 21, CFR, Section 1304 shall be
6 available for inspection upon request for at least 3 years after the date of the inventory.”

7 15. Section 4342 of the Code provides, in pertinent part, that the board may institute any
8 action or actions provided by law and deemed necessary to prevent the sale of pharmaceutical
9 preparations and drugs that do not conform to expected quality or strength.

10 16. California Code of Regulations, title 16, section 1715, subdivision (a), requires that
11 the pharmacist-in-charge of each pharmacy shall complete a self-assessment of the pharmacy’s
12 compliance with federal and state pharmacy law before July 1 of every odd-numbered year, and
13 subdivision (d) requires that each self-assessment shall be kept for three years after completion.

14 17. California Code of Regulations, title 16, section 1716, in pertinent part, prohibits any
15 pharmacist from deviating from the requirements of a prescription, except by prior consent of the
16 prescriber or for purposes of selection of the drug product pursuant to Section 4073.

17 18. California Code of Regulations, title 16, section 1717, subdivision (b) requires, in
18 pertinent part, that for each prescription on file, certain information shall be maintained and be
19 readily retrievable in the pharmacy, including the date dispensed, and the name or initials of the
20 dispensing pharmacist. All prescriptions filled or refilled by an intern pharmacist must also be
21 initialed by the supervising pharmacist before they are dispensed.

22 19. California Code of Regulations, title 16, section 1761 provides that no pharmacist
23 shall compound or dispense any prescription containing a significant error, omission, irregularity,
24 uncertainty, ambiguity or alteration, that upon receipt of any such prescription, the pharmacist
25 shall contact the prescriber to obtain the information needed to validate the prescription, and that
26 even after conferring with the prescriber, the pharmacist shall not compound or dispense any
27 controlled substance prescription where the pharmacist knows or has objective reason to know
28 that the prescription was not issued for a legitimate medical purpose.

1 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
2 prescription,’ ‘Rx only,’ or words of similar import. . . .

3 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
4 prescription or furnished pursuant to Section 4006.”

5 28. **OxyContin** is a brand name for **oxycodone**, a Schedule II controlled substance as
6 designated by Health and Safety Code section 11055(b)(1)(N) and a dangerous drug as designated
7 by Business and Professions Code section 4022. It is an opioid analgesic.

8 29. **Duragesic** is a brand name for a patch delivering **fantanyl**, a Schedule II controlled
9 substance as designated by Health and Safety Code section 11055(c)(8) and a dangerous drug as
10 designated by Business and Professions Code section 4022. It is an opioid analgesic.

11 30. **Demerol** is a brand name for **meperidine**, a Schedule II controlled substance as
12 designated by Health and Safety Code section 11055(b)(2) and a dangerous drug as designated by
13 Business and Professions Code section 4022. It is an opioid analgesic.

14 31. **Methadose** is a brand name for **methadone hydrochloride**, a Schedule II controlled
15 substance as designated by Health and Safety Code section 11055(c)(14) and a dangerous drug as
16 designated by Business and Professions Code section 4022. It is an opioid analgesic.

17 32. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for
18 compounds of varying dosages of acetaminophen (aka APAP) and **Hydrocodone**, a Schedule III
19 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
20 drug as designated by Business and Professions Code section 4022. The varying compounds are
21 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

22 33. **Testosterone** is a Schedule III controlled substance as designated by Health and
23 Safety Code section 11056(f)(30) and a dangerous drug as designated by Business and
24 Professions Code section 4022. It is a male hormone.

25 34. **Versed** is a brand name for **midazolam**, a Schedule IV controlled substance as
26 designated by Health and Safety Code section 11057(d)(21) and a dangerous drug as designated
27 by Business and Professions Code section 4022. It is a sedative drug.

28 ///

1 46. The investigation(s) revealed record-keeping, dispensing, and furnishing practices at
2 Bacon East Pharmacy, under Respondent's stewardship, that failed to comply with the law.

3 47. For instance, during an October 14, 2010 inspection by Board Inspector(s), five (5)
4 pharmacy technicians were on duty in the pharmacy without any of them wearing name tags.

5 48. Also during the inspection on October 14, 2010, Respondent was asked for a copy of
6 the most recent completed Community Pharmacy Self-Assessment Form. Respondent could not
7 produce a form completed in 2009, and the most recent form was completed in 2007.

8 49. Also on October 14, 2010, the Inspector(s) discovered two (2) prescription bottles in
9 the active inventory of the pharmacy that appeared not to have been dispensed from Bacon East
10 Pharmacy, and about which little could be discovered. The first of these was for patient M.L.¹: a
11 bottle labeled by Contra Costa Regional Medical Center Hospital Pharmacy, bearing prescription
12 number IP000397546 dated September 14, 2010, containing all of the forty-two (42) **divalproex**
13 **500 mg** unit dose tablets that it was labeled to contain. The second was for patient S.W.¹: a bottle
14 labeled with prescription number R41601023 dated April 25, 2010, with no pharmacy name on
15 the label, containing seventeen (17) of the sixty (60) **Geodon 80mg** caplets that it was labeled to
16 contain. The pharmacy had no records of acquisition for these containers or their contents, and
17 Respondent could not say for sure where they had come from. Respondent suspected that they
18 had been returned to the pharmacy from a half-way house where the patients were residents. The

19 patient profile for each patient maintained by Bacon East Pharmacy showed that on September
20 16, 2010 Bacon East Pharmacy dispensed prescription number 695042 to patient M.L. for forty-
21 two (42) **Depakote ER 500mg** tablets, on September 7, 2010 Bacon East Pharmacy dispensed
22 prescription number 695862 to patient S.W. for twenty-eight (28) **Geodon 40mg** capsules, and on
23 September 21, 2010 Bacon East Pharmacy dispensed prescription number 695660 to patient S.W.
24 for sixty (60) **Geodon 40mg** capsules. Both patients were then resident at the half-way house.

25 50. During an October 26, 2010 follow-up inspection, the Board Inspector(s) discovered
26 that the Schedule II prescription documents were filed together with the Schedule III-V materials.

27 _____
28 ¹ The full name(s) will be revealed to Respondent during discovery.

1 51. On October 26, 2010, the Board Inspector(s) discovered prescription number 699671
2 dispensed to patient S.M.¹ for **testosterone 0.2%** cream, not written on a security prescription
3 form, and prescription number 699648, dispensed to patient N.C.¹ for an unspecified number of
4 **Duragesic** patches, which did not have a quantity listed and/or the quantity check boxes marked.

5 52. During the course of the inspection(s), the Board Inspector(s) discovered that only a
6 small percentage of the prescription documents retained in the pharmacy had been hand-initialed
7 by the dispensing pharmacist. For instance, out of seventy-five (75) prescriptions numbered from
8 699400 to 699599 there were eleven (11) with the dispensing pharmacist's initials and sixty-four
9 (64) without initials. Likewise, out of sixty-one (61) prescriptions between 699600 and 699799
10 there were fourteen (14) with the dispensing pharmacist's initials and forty-seven (47) without.
11 Respondent admitted he could not determine who the dispensing pharmacist was for any of these.

12 53. During the course of the inspection(s), the Board Inspector(s) discovered that all of
13 the labels generated for prescription containers and all of the trailer labels attached to the back of
14 prescriptions printed with the initials "LG." Respondent admitted that these were his initials but
15 that their presence on the label did not mean anything because that was a default that printed on
16 every label and did not reflect the actual identity of the dispensing pharmacist.

17 54. During the course of the inspection(s), the Board Inspector(s) discovered at least six
18 (6) partially-used bubble packs in the active inventory of the pharmacy, two (2) each containing
19 **risperidone (Risperdal)** and **warfarin (Coumadin)**, and one (1) each containing **fluoxetine**
20 **(Prozac)** and **Diovan (valsartan)**, for which the pharmacy had no acquisition records.

21 55. During the course of the investigation(s), the Board Inspector(s) discovered that on at
22 least five (5) occasions between September 5, 2008 and November 5, 2010, Bacon East Pharmacy
23 furnished at least seven (7) compounds containing dangerous drugs to one or more persons who
24 were not prescribers, without a legitimate prescription or other legitimate authorization, relying
25 solely on letters from a Dr. Allen Fujimoto. The dangerous drugs included a topical cream
26 containing **hydroquinone** (furnished on or about September 5, 2008 and March 2, 2010), and a
27 gel or other topical application containing **lidocaine**, **tetracaine**, and/or **benzocaine** (furnished on
28 or about September 5, 2008, and March 2, May 27, October 22, and November 5, 2010).

1 56. During the investigation of these deliveries, the Board Inspector(s) asked for all of the
2 records of disposition pertaining to Dr. Fujimoto, or either of the subjects of the two letters. As
3 its response, Bacon East Pharmacy produced only one (1) of five (5) monthly billing statements,
4 and only three (3) of five (5) shipping receipts or tracking documents, pertaining to the deliveries
5 listed above. In addition, all of the documents produced related to deliveries to only one of the
6 two persons allegedly authorized to receive deliveries by the letters from Dr. Fujimoto, and there
7 were no records produced that related to any deliveries made to the other subject of the letters.

8 57. Finally, during the course of the investigation(s), the Board Inspector(s) discovered
9 the following with regard to dispensing of controlled substances and dangerous drugs by Bacon
10 East Pharmacy, and/or as to Respondent as dispensing pharmacist and/or Pharmacist in Charge:

11 a. In or about August and September 2010, the Board received two complaints by
12 a family member of a Bacon East Pharmacy patient (A.H.¹), claiming that A.H. had recently been
13 hospitalized, that she had been filling **OxyContin** (or **oxycodone**) prescriptions with Bacon East
14 Pharmacy for over a year, that between June 21, 2010 and August 10, 2010 she filled excessive
15 prescriptions for **OxyContin** (or **oxycodone**) at Bacon East Pharmacy in a total quantity or daily
16 average that nearly killed her,² and that A.H.'s prescriber had been disciplined and lost his DEA
17 registration.³ The complaint(s) asserted that Bacon East Pharmacy ought to have intervened.

18 b. Between on or about January 1, 2007 and September 2, 2010, patient A.H. was
19 dispensed one hundred seventeen (117) controlled substance prescriptions, from ten (10) different
20 prescribers, by five (5) different pharmacies. Fifty four (54) of these were dispensed by Bacon
21 East Pharmacy, the largest number among the pharmacies. All fifty four (54) were written by
22 Dickie L. Hill, D.O., and were dispensed between May 8, 2009 and September 2, 2010.

23 ² During this time period, patient A.H. filled seven (7) prescriptions for a total of sixty (60)
24 tablets of **OxyContin** (or **oxycodone**) **20mg**, three hundred forty (340) tablets of **OxyContin** (or
oxycodone) **30mg**, and two hundred eighty (280) tablets of **OxyContin** (or **oxycodone**) **40mg**.

25 ³ Subsequent investigation later confirmed that by Decision and Order of the Osteopathic
26 Medical Board effective September 30, 2010, the prescriber, Dickie L. Hill, D.O., had his license
27 to practice revoked, with the revocation stayed in favor of a probation of five (5) years, on terms
28 and conditions including a limitation to prescribing controlled substances in Schedules III and IV
of the California Uniform Controlled Substances Act, and a requirement that Dr. Hill surrender
his DEA registration for cancellation and re-apply for a registration limited to these Schedules.

1 c. Prior to coming to Bacon East Pharmacy for the first time on or about May 8,
2 2009, patient A.H. had a drug history of primarily maintenance prescriptions for **Hydrocodone**
3 **with APAP** drug products, dispensed approximately monthly with tapering usage. A.H. had also
4 previously been prescribed **oxycodone**, but not since on or about June 4, 2007, and for almost two
5 (2) years, patient A.H. was not prescribed any Schedule II controlled substances.

6 d. Then, on May 8, 2009, upon her first presentation to the pharmacy as a patient,
7 Bacon East Pharmacy dispensed to patient A.H., pursuant to prescriptions from Dr. Hill, ten (10)
8 **fantanyl 50mcg** patches, fifty (50) **oxycodone 15mg** and one hundred (100) **Oxycontin 40mg**.
9 This was a significant jump in controlled substance pain therapy for patient A.H.

10 e. Bacon East Pharmacy continued to dispense Schedule II controlled substances
11 to patient A.H., pursuant to prescriptions from Dr. Hill, on approximately a monthly basis from
12 May 2009 to August 2010, for a total of fifty four (54) prescriptions. The prescribed medications
13 included **fantanyl**, **OxyContin/oxycodone**, and sleep medications.

14 f. At least one other patient for whom Dr. Hill prescribed had a high volume of
15 controlled substance prescriptions dispensed by Bacon East Pharmacy. Between January 1, 2009
16 and September 2, 2010, patient M.T.¹ was dispensed the largest number of **Hydrocodone with**
17 **APAP 10/325** prescriptions (42), and the largest number of **OxyContin 80mg** prescriptions (40),
18 all written by Dr. Hill. During this time period, Dr. Hill also wrote for patient M.T., and Bacon
19 East Pharmacy dispensed to patient M.T., seven (7) prescriptions for **oxycodone 30mg**, seventeen
20 (17) prescriptions for **alprazolam**, and nineteen (19) prescriptions for **Ambien**.

21 g. At least with regard to these two patients, neither Respondent nor anyone else
22 at Bacon East Pharmacy sufficiently investigated or acted upon suspicious circumstances that
23 suggested the impropriety of the controlled substance prescriptions dispensed.

24 h. Respondent admitted to Board Inspector(s) that neither he nor anyone else at
25 Bacon East Pharmacy made a practice of assessing a patient's therapy for questionable patterns of
26 use before dispensing controlled substance prescriptions, and said that he considered it the job of
27 the prescriber to determine the propriety of the prescription(s) for the patient(s).

28 i. Respondent said that he and his colleagues did not tend to ask many questions.

1 FIRST CAUSE FOR DISCIPLINE

2 (Pharmacy Technician(s) Not Wearing Identification Badge(s))

3 58. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
4 the Code, by reference to California Code of Regulations, title 16, section 1793.7, subdivision (c),
5 for directly or indirectly violating, attempting to violate, or assisting in or abetting a violation of
6 laws or regulations governing the practice of pharmacy, or in his role as Pharmacist in Charge for
7 violations of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as described
8 in paragraph 47 above, on or about October 14, 2010 the pharmacy technician(s) at Bacon East
9 Pharmacy was/were not wearing appropriate identification badge(s).

10 SECOND CAUSE FOR DISCIPLINE

11 (Failure to Complete Biennial Pharmacy Self-Assessment Form(s))

12 59. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
13 the Code, by reference to California Code of Regulations, title 16, section 1715, subdivision (a),
14 for directly or indirectly violating, attempting to violate, or assisting in or abetting a violation of
15 laws or regulations governing the practice of pharmacy, or in his role as Pharmacist in Charge for
16 violations of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as described
17 in paragraph 48 above, on or about October 14, 2010 the most recent Community Pharmacy Self-
18 Assessment Form had been completed in 2007, rather than in 2009 as required.

19 THIRD CAUSE FOR DISCIPLINE

20 (Incomplete Inventory and/or Records of Acquisition)

21 60. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
22 the Code, by reference to section(s) 4081, 4105, 4332 and/or 4342 of the Code, and/or California
23 Code of Regulations, title 16, section 1718, for directly or indirectly violating, attempting to
24 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
25 pharmacy, or in his role as Pharmacist in Charge for violations of laws or regulations by Bacon
26 East Pharmacy or its employee(s), in that, as described in paragraphs 49 and 54 above, on or
27 about October 14, 2010 and/or October 26, 2010, Bacon East Pharmacy had in its inventory at
28 least eight (8) dangerous drugs for which it had no or inadequate records of acquisition.

1 TENTH CAUSE FOR DISCIPLINE

2 (Failure(s) to Meet Corresponding Responsibility of Pharmacist(s))

3 67. Respondent is subject to discipline under section 4301(j) and/or (o), and/or section
4 4113(c), of the Code, by reference to Health and Safety Code sections 11153 and/or California
5 Code of Regulations, title 16, section 1761, for violating statutes regulating controlled substances
6 or dangerous drugs, or for directly or indirectly violating, attempting to violate, or assisting in or
7 abetting a violation of laws or regulations governing the practice of pharmacy, or in his role as
8 Pharmacist in Charge for violation(s) of laws or regulations by Bacon East Pharmacy or its
9 employee(s), in that, as described in paragraph 57 above, on one or more occasions Respondent
10 and/or other pharmacists at Bacon East Pharmacy who filled controlled substance prescription(s)
11 failed to meet his/her/their corresponding responsibility as to the legitimacy of the prescription(s).

12 ELEVENTH CAUSE FOR DISCIPLINE

13 (Inappropriate Exercise of Education, Training, or Experience as Pharmacist)

14 68. Respondent is subject to discipline under section 4301(j) and/or (o), section 4306.5,
15 and/or section 4113(c), of the Code: for violating statutes regulating controlled substances or
16 dangerous drugs; for directly or indirectly violating, attempting to violate, or assisting in or
17 abetting a violation of laws or regulations governing the practice of pharmacy; for inappropriately
18 exercising his education, training, or experience as a pharmacist, failing to exercise or implement
19 his best professional judgment or corresponding responsibility with regard to the dispensing or
20 furnishing of controlled substances or dangerous drugs, failing to consult appropriate patient,
21 prescription, and other records pertaining to performance of a pharmacy function, or failing to
22 fully maintain and retain appropriate patient-specific information pertaining to performance of a
23 pharmacy function; and/or in his role as Pharmacist in Charge for violation(s) of laws or
24 regulations by Bacon East Pharmacy or its employee(s), in that, as described in paragraph 57
25 above, Respondent and/or other pharmacists at Bacon East Pharmacy who filled controlled
26 substance prescription(s) failed to properly exercise his/their education, training and experience,
27 failed to exercise or implement his/their best professional judgment/corresponding responsibility,
28 and/or failed to consult or maintain appropriate patient records for pharmacy function(s).

1 TWELFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

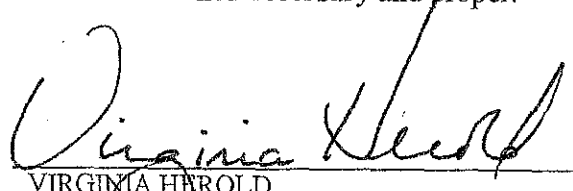
3 69. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 45 to 68 above, engaged in unprofessional conduct

5
6 PRAYER

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

- 9 1. Revoking or suspending Pharmacist License No. RPH 28046, issued to Larry Alan
10 Grabel (Respondent);
- 11 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
12 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 13 3. Taking such other and further action as is deemed necessary and proper.

14
15 DATED: 5/14/12


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

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