

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

In the Matter of the Accusation Against:

Case No. 4752

JIGNESH JASHBHAI PATEL

3955 Nobel Drive, #179
San Diego, CA 92122

Pharmacist License No. RPH 59344

Respondent.

DECISION AND ORDER

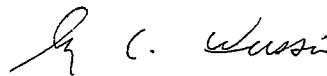
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on September 16, 2014.

It is so ORDERED on September 9, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

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

11
12 In the Matter of the Accusation Against:

Case No. 4752 .

13 **JIGNESH JASHBHAI PATEL**
2145 Manchester Avenue
14 **Cardiff by the Sea, CA 92007**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Pharmacist License No. RPH 59344**

16 Respondent.

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

20 PARTIES

21 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Sherry L. Ledakis, Deputy Attorney
24 General.

25 2. Respondent Jignesh Jashbhai Patel ("Respondent") is represented in this proceeding
26 by attorney David M. Balfour, Esq., whose address is: 2780 Gateway Road, Carlsbad, CA
27 92009.

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1 3. On or about March 8, 2007, the Board of Pharmacy issued Pharmacist License No.
2 RPH 59344 to Respondent. The Pharmacist License was in full force and effect at all times
3 relevant to the charges brought in Accusation No. 4752 and will expire on July 31, 2014, unless
4 renewed.

5 JURISDICTION

6 4. Accusation No. 4752 was filed before the Board of Pharmacy (Board), Department of
7 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
8 statutorily required documents were properly served on Respondent on January 8, 2014.
9 Respondent timely filed his Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 4752 is attached as exhibit A and incorporated herein by
11 reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 4752. Respondent has also carefully read, fully
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
16 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 Accusation; the right to be represented by counsel at
19 his own expense; the right to confront and cross-examine the witnesses against him; the right to
20 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
21 the attendance of witnesses and the production of documents; the right to reconsideration and
22 court review of an adverse decision; and all other rights accorded by the California
23 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 Accusation
28 No. 4752.

1 **1. Suspension.**

2 As part of probation, respondent is suspended from the practice of pharmacy for 120 days
3 beginning the effective date of this decision. Respondent is being given credit for this time
4 already served in the Maximus Program.

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

13 Respondent shall not engage in any activity that requires the professional judgment of a
14 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
15 Respondent shall not perform the duties of a pharmacy technician or a designated representative
16 for any entity licensed by the board.

17 Subject to the above restrictions, respondent may continue to own or hold an interest in any
18 licensed premises in which he or she holds an interest at the time this decision becomes effective
19 unless otherwise specified in this order.

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

21 **2. Obey All Laws.**

22 Respondent shall obey all state and federal laws and regulations. Respondent shall report
23 any of the following occurrences to the board, in writing, within seventy-two (72) hours of such
24 occurrence: an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
26 laws; a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal
27 complaint, information or indictment; or a conviction of any crime, discipline, citation, or other
28 administrative action filed by any state or federal agency which involves respondent's pharmacy

1 license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling,
2 distributing, billing, or charging for any drug, device or controlled substance. Failure to timely
3 report such occurrence shall be considered a violation of probation.

4 **3. Report to the Board**

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

13 **4. Interview with the Board**

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

19 **5. Cooperate with Board Staff**

20 Respondent shall cooperate with the board's inspection program and with the board's
21 monitoring and investigation of respondent's compliance with the terms and conditions of his
22 probation. Failure to cooperate shall be considered a violation of probation.

23 **6. Continuing Education**

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

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1 **7. Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in Case Number 4752 and the terms, conditions and restrictions
4 imposed on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause his direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in Case Number 4752, and terms and conditions imposed
10 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
11 submit timely acknowledgment(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
14 licensed by the board of the terms and conditions of the decision in Case Number 4752 in
15 advance of the respondent commencing work at each licensed entity. A record of this notification
16 must be provided to the board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause his direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that he or she has read the decision in Case Number
21 4752 and the terms and conditions imposed thereby. It shall be respondent's responsibility to
22 ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23 Failure to timely notify present or prospective employer(s) or to cause that/those
24 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
25 probation.

26 "Employment" within the meaning of this provision shall include any full-time, part-time,
27 temporary, relief or pharmacy management service as a pharmacist or any position for which a

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1 pharmacist license is a requirement or criterion for employment, whether the respondent is an
2 employee, independent contractor or volunteer.

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

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

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the
11 board its costs of investigation and prosecution in the amount of \$2,227.50. Respondent shall
12 make said payments as determined by his probation monitor.

13 There shall be no deviation from this schedule absent prior written approval by the board or
14 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
15 probation.

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

18 **10. Probation Monitoring Costs**

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

23 **11. Status of License**

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

27 If respondent's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
2 probation not previously satisfied.

3 **12. License Surrender While on Probation/Suspension**

4 Following the effective date of this decision, should respondent cease practice due to
5 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
6 respondent may tender his license to the board for surrender. The board or its designee shall have
7 the discretion whether to grant the request for surrender or take any other action it deems
8 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
9 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
10 record of discipline and shall become a part of the respondent's license history with the board.

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

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

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

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

26 **14. Tolling of Probation**

27 Except during periods of suspension, respondent shall, at all times while on probation, be
28 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any

1 month during which this minimum is not met shall toll the period of probation, i.e., the period of
2 probation shall be extended by one month for each month during which this minimum is not met.
3 During any such period of tolling of probation, respondent must nonetheless comply with all
4 terms and conditions of probation.

5 Should respondent, regardless of residency, for any reason (including vacation) cease
6 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
7 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
8 must further notify the board in writing within ten (10) days of the resumption of practice. Any
9 failure to 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 not
14 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code
15 section 4000 *et seq.* "Resumption of practice" means any calendar month during which
16 respondent is practicing as a pharmacist for at least 40 hours, as defined by Business and
17 Professions Code section 4000 *et seq.*

18 **15. Pharmacists Recovery Program (PRP)**

19 Within thirty (30) days of the effective date of this decision, respondent shall contact the
20 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
21 successfully participate in, and complete the treatment contract and any subsequent addendums as
22 recommended and provided by the PRP and as approved by the board or its designee. The costs
23 for PRP participation shall be borne by the respondent.

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

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

3 Probation shall be automatically extended until respondent successfully completes the PRP.
4 Any person terminated from the PRP program shall be automatically suspended by the board.
5 Respondent may not resume the practice of pharmacy until notified by the board in writing.

6 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
7 licensed practitioner as part of a documented medical treatment shall result in the automatic
8 suspension of practice by respondent and shall be considered a violation of probation. Respondent
9 may not resume the practice of pharmacy until notified by the board in writing.

10 During suspension, respondent shall not enter any pharmacy area or any portion of the
11 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
12 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
13 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
14 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
15 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
16 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
17 and controlled substances. Respondent shall not resume 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. Respondent shall not direct or control any aspect of the
20 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
21 designated representative for any entity licensed by the board.

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

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

26 **16. Random Drug Screening**

27 Respondent, at his own expense, shall participate in random testing, including but not
28 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug

1 screening program as directed by the board or its designee. Respondent may be required to
2 participate in testing for the entire probation period despite his completion of the PRP program,
3 and the frequency of testing will be determined by the board or its designee. At all times,
4 respondent shall fully cooperate with the board or its designee, and shall, when directed, submit
5 to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or
6 other controlled substances as the board or its designee may direct. Failure to timely submit to
7 testing as directed shall be considered a violation of probation. Upon request of the board or its
8 designee, respondent shall provide documentation from a licensed practitioner that the
9 prescription for a detected drug was legitimately issued and is a necessary part of the treatment of
10 the respondent. Failure to timely provide such documentation shall be considered a violation of
11 probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
12 licensed practitioner as part of a documented medical treatment shall be considered a violation of
13 probation and shall result in the automatic suspension of practice of pharmacy by respondent.
14 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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1 **17. Abstain from Drugs and Alcohol Use**

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

13 **18. Prescription Coordination and Monitoring of Prescription Use**

14 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
16 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
17 history with the use of alcohol, controlled substances, and/or dangerous drugs, and who will
18 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
19 substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the
20 board's accusation and decision. A record of this notification must be provided to the board upon
21 request. Respondent shall sign a release authorizing the practitioner to communicate with the
22 board about respondent's treatment(s). The coordinating physician, nurse practitioner, physician
23 assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation
24 regarding respondent's compliance with this condition. If any substances considered addictive
25 have been prescribed, the report shall identify a program for the time limited use of any such
26 substances. The board may require that the single coordinating physician, nurse practitioner,
27 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in
28 addictive medicine. Should respondent, for any reason, cease supervision by the approved

1 practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing
2 treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or
3 psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
4 timely submit the selected practitioner or replacement practitioner to the board for approval, or to
5 ensure the required reporting thereby on the quarterly reports, shall be considered a violation of
6 probation.

7 If at any time an approved practitioner determines that respondent is unable to practice
8 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
9 telephone and follow up by written letter within three (3) working days. Upon notification from
10 the board or its designee of this determination, respondent shall be automatically suspended and
11 shall not resume practice until notified by the board that practice may be resumed.

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

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

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

25 19. **Community Services Program**

26 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
27 board or its designee, for prior approval, a community service program in which respondent shall
28 provide free health-care related services on a regular basis to a community or charitable facility or

1 agency for 48 hours per year for the first four (4) years of probation. Within thirty (30) days of
2 board approval thereof, respondent shall submit documentation to the board demonstrating
3 commencement of the community service program. A record of this notification must be provided
4 to the board upon request. Respondent shall report on progress with the community service
5 program in the quarterly reports. Failure to timely submit, commence, or comply with the
6 program shall be considered a violation of probation.

7 **20. Supervised Practice**

8 During the period of probation, respondent shall practice only under the supervision of a
9 licensed pharmacist not on probation with the board. Upon and after the effective date of this
10 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
11 until a supervisor is approved by the board or its designee. The supervision shall be, as required
12 by the board or its designee, either:

13 Continuous – At least 75% of a work week, Substantial - At least 50% of a work week,
14 Partial - At least 25% of a work week, or Daily Review - Supervisor's review of probationer's
15 daily activities within 24 hours.

16 Within thirty (30) days of the effective date of this decision, respondent shall have his
17 supervisor submit notification to the board in writing stating that the supervisor has read the
18 decision in Case Number 4752 and is familiar with the required level of supervision as
19 determined by the board or its designee. It shall be the respondent's responsibility to ensure that
20 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
21 the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
22 acknowledgements to the board shall be considered a violation of probation.

23 If respondent changes employment, it shall be the respondent's responsibility to ensure that
24 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
25 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
26 commences, submit notification to the board in writing stating the direct supervisor and
27 pharmacist-in-charge have read the decision in Case Number 4752 and is familiar with the level
28 of supervision as determined by the board. Respondent shall not practice pharmacy and his

1 license shall be automatically suspended until the board or its designee approves a new
2 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
3 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

18 **21. No Ownership of Licensed Premises**

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

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1 **22. Tolling of Suspension**

2 During the period of suspension, respondent shall not leave California for any period
3 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
4 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
5 absence from California during the period of suspension exceeding ten (10) days shall toll the
6 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
7 respondent is absent from California. During any such period of tolling of suspension, respondent
8 must nonetheless comply with all terms and conditions of probation.

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

14 **23. Criminal Probation/Parole Reports**

15 Respondent shall provide a copy of the conditions of any criminal probation/parole to the
16 board, in writing, within ten (10) days of the issuance or modification of those conditions.
17 Respondent shall provide the name of his probation/parole officer to the board, in writing, within
18 ten (10) days after that officer is designated or a replacement for that officer is designated.
19 Respondent shall provide a copy of all criminal probation/parole reports to the board within ten
20 (10) days after respondent receives a copy of such a report. Failure to timely make any of the
21 submissions required hereby shall be considered a violation of probation.

22 **24. Ethics Course**

23 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
24 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
25 Failure to initiate the course during the first year of probation, and complete it within the second
26 year of probation, is a violation of probation.

27 Respondent shall submit a certificate of completion to the board or its designee within five
28 days after completing the course.

1 25. **Violation of Probation**

2 If a respondent has not complied with any term or condition of probation, the board shall
3 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
4 all terms and conditions have been satisfied or the board has taken other action as deemed
5 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
6 to impose the penalty that was stayed.

7 If respondent violates probation in any respect, the board, after giving respondent notice
8 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
9 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
10 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
11 a petition to revoke probation or an accusation is filed against respondent during probation, the
12 board shall have continuing jurisdiction and the period of probation shall be automatically
13 extended until the petition to revoke probation or accusation is heard and decided.

14 26. **Completion of Probation**

15 Upon written notice by the board or its designee indicating successful completion of
16 probation, respondent's license will be fully restored.

17 ACCEPTANCE

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

23
24 DATED: 07/15/14


JIGNESH JASHBHAI PATEL
Respondent

26 I have read and fully discussed with Respondent Jignesh Jashbhai Patel the terms and
27 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
28 I approve its form and content.

1 DATED:

2 7/15/2014 David M. Balfour

3 DAVID M. BALFOUR, ESQ.
4 Attorney for Respondent

5 ENDORSEMENT

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

8 Dated: August 8, 2014

9 Respectfully submitted,

10 KAMALA D. HARRIS
11 Attorney General of California
12 LINDA K. SCHNEIDER
13 Supervising Deputy Attorney General

14 Sherry Ledakis

15 SHERRY L. LEDAKIS
16 Deputy Attorney General
17 *Attorneys for Complainant*

18 SD2013705505
19 Stip to R 7 9 14.docx

Exhibit A

Accusation No. 4752

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **JIGNESH JASHBHAI PATEL**
13 **2145 Manchester Avenue**
14 **Cardiff by the Sea, CA 92007**
15 **Pharmacist License No. RPH 59344**
16 Respondent.

Case No. 4752
ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about March 8, 2007, the Board of Pharmacy issued Pharmacist License
22 Number RPH 59344 to Jignesh Jashbhai Patel (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on July 31,
24 2014, unless renewed.

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 unless otherwise indicated.

1 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or
2 revoked.”

3 5. Section 4300.1 of the Code states:

4 The expiration, cancellation, forfeiture, or suspension of a board-issued license
5 by operation of law or by order or decision of the board or a court of law, the
6 placement of a license on a retired status, or the voluntary surrender of a license by a
7 licensee shall not deprive the board of jurisdiction to commence or proceed with any
8 investigation of, or action or disciplinary proceeding against, the licensee or to render
9 a decision suspending or revoking the license.

8 STATUTORY AND REGULATORY PROVISIONS

9 5. Section 482 of the Code states:

10 Each board under the provisions of this code shall develop criteria to evaluate
11 the rehabilitation of a person when considering suspension or revocation of a license
12 under Section 490. Each board shall take into account all competent evidence of
13 rehabilitation furnished by the applicant or licensee.

14 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
15 revoke a license on the ground that the licensee has been convicted of a crime substantially
16 related to the qualifications, functions, or duties of the business or profession for which the
17 license was issued.

18 8. Section 493 of the Code states:

19 Notwithstanding any other provision of law, in a proceeding conducted by a
20 board within the department pursuant to law to deny an application for a license or
21 to suspend or revoke a license or otherwise take disciplinary action against a person
22 who holds a license, upon the ground that the applicant or the licensee has been
23 convicted of a crime substantially related to the qualifications, functions, and duties
24 of the licensee in question, the record of conviction of the crime shall be conclusive
25 evidence of the fact that the conviction occurred, but only of that fact, and the board
26 may inquire into the circumstances surrounding the commission of the crime in
27 order to fix the degree of discipline or to determine if the conviction is substantially
28 related to the qualifications, functions, and duties of the licensee in question.

As used in this section, “license” includes “certificate,” “permit,” “authority,”
and “registration.”

6. Section 4301 of the Code states:

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

....
1
2 (h) The administering to oneself, of any controlled substance, or the use of any
3 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
4 dangerous or injurious to oneself, to a person holding a license under this chapter, or
5 to any other person or to the public, or to the extent that the use impairs the ability of
6 the person to conduct with safety to the public the practice authorized by the license.

....
7 (k) The conviction of more than one misdemeanor or any felony involving the
8 use, consumption, or self administration of any dangerous drug or alcoholic
9 beverage, or any combination of those substances.

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

....
REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1769, states:

....
21 (b) When considering the suspension or revocation of a facility or a personal
22 license on the ground that the licensee or the registrant has been convicted of a crime,
23 the board, in evaluating the rehabilitation of such person and his present eligibility for
24 a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation,
27 restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

1 8. California Code of Regulations, title 16, section 1770, states:

2 For the purpose of denial, suspension, or revocation of a personal or facility
3 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
4 Professions Code, a crime or act shall be considered substantially related to the
5 qualifications, functions or duties of a licensee or registrant if to a substantial degree
6 it evidences present or potential unfitness of a licensee or registrant to perform the
7 functions authorized by his license or registration in a manner consistent with the
8 public health, safety, or welfare.

6 COST RECOVERY

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

11 FIRST CAUSE FOR DISCIPLINE

12 (March 26, 2013 Conviction for Driving Under the Influence on August 19, 2012)

13 10. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
14 (l) of the Code in that he was convicted of a crime substantially related to the qualifications,
15 duties, and functions of a pharmacist. The circumstances are as follows:

16 a. On or about March 26, 2013, in a criminal proceeding entitled *People of the*
17 *State of California v. Patel Jignesh*, in San Diego County Superior Court, case number M156579,
18 Respondent was convicted on his plea of guilty to violating Vehicle Code section 23153,
19 subdivision (b), driving with a blood alcohol concentration above .08 percent, with a prior
20 conviction.

21 b. As a result of the conviction, on or about March 26, 2013, the court ordered
22 Respondent placed on probation for five (5) years, and required him to complete several terms
23 and conditions of probation, including but not limited to, completing a multiple offender driving
24 under the influence program, and attend a Mother's Against Drunk Driving program, payment of
25 fines, fees, and penalties, and serve four (4) days in custody.

26 c. The facts that led to the conviction are that on or about August 19, 2012, at
27 approximately 4:10 a.m., a San Diego Police Officer observed a dark gray Acura MDX in the
28 middle of the street of the 9200 block of Judicial Dr., in San Diego. The vehicle's engine was

1 running and the headlights were on. The officer looked inside the car and saw Respondent passed
2 out and slumped behind the wheel of the car. The officer knocked on the driver's side window to
3 wake him up without success. The officer tried to open the doors on the car, but they were all
4 locked. He continued to knock on the driver's side window and Respondent opened his eyes
5 looked at the officer and then put his head back down on the steering wheel and went back to
6 sleep. The officer knocked again and Respondent looked up and rolled down his window. The
7 officer reached inside of the car and turned the engine off. As he did so, he could smell a strong
8 odor of alcohol coming from the interior of the car. The officer helped Respondent out of the car.
9 Respondent could not stand up by himself, and stumbled. The officer did not conduct field
10 sobriety tests for Respondent's safety. Respondent did not know where he was or how he got to
11 where he was. However, he did admit to drinking beer, and he thought the alcohol had affected
12 his ability to drive.

13 c. When Respondent was asked what medications he was taking he told the
14 officer he was taking Celexa (an anti-depressant), Gefrembrizoil, Lofibria (cholesterol
15 medication), and Zolipidem (sleep medication, and a Schedule IV controlled substance per
16 Health and Safety Code section 11057(d)(32).) A breath test taken at the scene indicated his
17 blood alcohol concentration (BAC) was .22 percent.

18 SECOND CAUSE FOR DISCIPLINE

19 (Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)

20 11. Respondent is subject to disciplinary action for unprofessional conduct under section
21 4301, subdivision (h) of the Code, in that on or about August 19, 2012, Respondent used alcohol
22 to an extent that was dangerous and injurious to himself, and others, when he drove a vehicle with
23 a substantially high BAC of .22 percent, as described in paragraph 10, above.

24 THIRD CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct - More Than One Misdemeanor 26 Conviction Involving the Consumption of Alcohol)

27 12. Respondent is subject to disciplinary action for unprofessional conduct under section
28 4301, subdivision (k) in that Respondent has sustained two misdemeanors involving the

1 consumption of alcohol, as set forth above in paragraph 10 and below in paragraphs 14 through
2 16.

3 **DISCIPLINARY CONSIDERATIONS**

4 13. On or about September 21, 2009, in a criminal proceeding entitled *People of the State*
5 *of California v. Patel Jignesh*, in San Diego County Superior Court, case number M070019,
6 Respondent was convicted on his plea of guilty to violating Vehicle Code section 23152,
7 subdivision (b), driving with a BAC above .08 percent, *to wit*. .19 percent.

8 14. As a result of the conviction, on or about September 21, 2009, the court ordered
9 Respondent placed on probation for five (5) years, and sentenced him to complete several terms
10 and conditions of probation, including but not limited to, completing a three month first offender
11 DUI program, a Mothers Against Drunk Driving Victims Impact Panel, and 4 days of public
12 service, and pay fines and fees.

13 15. On May 28, 2010, the Board issued a citation against Respondent's pharmacist
14 license based upon his 2009 conviction for DUI, and fined Respondent \$1,000.00, which he paid
15 in full on December 21, 2010.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacist License Number RPH 59344, issued to Jignesh
20 Jashbhai Patel

21 2. Ordering Jignesh Jashbhai Patel to pay the Board of Pharmacy the reasonable costs of
22 the investigation and enforcement of this case, pursuant to Business and Professions Code section
23 125.3;

24 ///

25 ///

26 ///

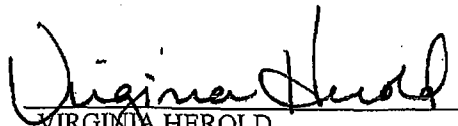
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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/12/13



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant