



APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Nicholas Cal Vanderstout</u>	Case No. <u>4796</u>
Address of Record: <u>415 E Modoc St</u> <u>Alturas, CA 96101</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 4796, I hereby request to surrender my license, License No. RPH 66743. 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.

Applicant's Signature

Date

[Signature]
 Executive Officer's Approval

Date

8-25-14

8/29/14

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. 4796

NICHOLAS CAL VANDERSLOOT
415 E. Modoc St.
Alturas, CA 96101

Pharmacist License No. RPH 66743

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 July 15, 2014.

It is so ORDERED on July 8, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-6819
Facsimile: (916) 327-8643
7 E-mail: Stephanie.AlamoLatif@doj.ca.gov
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 4796

13 **NICHOLAS CAL VANDERSLOOT**
415 E. Modoc St.
14 Alturas, CA 96101

OAH No. 2013100079

15 **Pharmacist License No. 66743**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

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

21 PARTIES

22 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
23 ("Board"), Department of Consumer Affairs. She brought this action solely in her official
24 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of
25 California, by Stephanie Alamo-Latif, Deputy Attorney General.

26 2. Respondent Nicholas Cal Vandersloot ("Respondent") is represented in this
27 proceeding by attorney Paul Chan, whose address is:
28

1 Law Offices of Paul Chan
2 2311 Capitol Ave.
3 Sacramento, CA 95816

4 3. On or about December 19, 2011, the Board issued Pharmacist License No. 66743 to
5 Respondent. The Pharmacist License was in full force and effect at all times relevant to the
6 charges brought in Accusation No. 4796 and will expire on February 28, 2015, unless renewed.

7 JURISDICTION

8 4. Accusation No. 4796 was filed before the Board, and is currently pending against
9 Respondent. The Accusation and all other statutorily required documents were properly served
10 on Respondent on September 17, 2013. Respondent timely filed his Notice of Defense contesting
11 the Accusation.

12 5. A copy of Accusation No. 4796 is attached as exhibit A and incorporated herein by
13 reference.

14 ADVISEMENT AND WAIVERS

15 6. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in Accusation No. 4796. Respondent has also carefully read, fully
17 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
18 Order.

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

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

28 \\\

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 4796.

4 10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
5 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 CONTINGENCY

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

16 12. The parties understand and agree that Portable Document Format ("PDF"), facsimile,
17 and/or electronic copies of this Stipulated Settlement and Disciplinary Order, including PDF,
18 facsimile and/or electronic copies signatures thereto, shall have the same force and effect as the
19 originals.

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

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

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. 66743 issued to Respondent
3 Nicholas Cal Vandersloot is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for five (5) years on the following terms and conditions.

5 **1. Obey All Laws**

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

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

- 9 • An arrest or issuance of a criminal complaint for violation of any provision of the
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
11 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 P license or which is related to the practice of pharmacy
17 or the manufacturing, obtaining, handling, distributing, billing, or charging for any
18 drug, device or controlled substance.

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

20 **2. Report to the Board**

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

1 **3. Interview with the Board**

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

7 **4. Cooperate with Board Staff**

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

11 **5. Continuing Education**

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

14 **6. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 4796 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 respondent undertaking any new employment, respondent shall cause his direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 4796, and terms and conditions imposed
23 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
24 submit timely acknowledgment(s) to the board.

25 If respondent works for or is employed by or through a pharmacy employment service,
26 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
27 licensed by the board of the terms and conditions of the decision in case number 4796 in advance
28

1 of the respondent commencing work at each licensed entity. A record of this notification must be
2 provided to the board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of respondent undertaking any new employment by or through a pharmacy employment
5 service, respondent shall cause his direct supervisor with the pharmacy employment service to
6 report to the board in writing acknowledging that he has read the decision in case number 4796
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
8 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the
24 board its costs of investigation and prosecution in the amount of \$3,834.50. Respondent shall
25 make payments on a payment plan approved by the Board.

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

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

3 **9. Probation Monitoring Costs**

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

8 **10. Status of License**

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

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

16 **11. License Surrender While on Probation/Suspension**

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

24 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
25 the board within ten (10) days of notification by the board that the surrender is accepted.
26 Respondent may not reapply for any license from the board for three (3) years from the effective
27 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
28

1 of the date the application for that license is submitted to the board, including any outstanding
2 costs.

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

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

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

12 **13. Tolling of Probation**

13 Except during periods of suspension, respondent shall, at all times while on probation, be
14 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
15 month during which this minimum is not met shall toll the period of probation, i.e., the period of
16 probation shall be extended by one month for each month during which this minimum is not met.
17 During any such period of tolling of probation, respondent must nonetheless comply with all
18 terms and conditions of probation.

19 Should respondent, regardless of residency, for any reason (including vacation) cease
20 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
21 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
22 must further notify the board in writing within ten (10) days of the resumption of practice. Any
23 failure to provide such notification(s) shall be considered a violation of probation.

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

27 "Cessation of practice" means any calendar month during which respondent is
28 not practicing as a pharmacist for at least 40 hours, as defined by Business and

1 Professions Code section 4000 et seq . "Resumption of practice" means any calendar
2 month during which respondent is practicing as a pharmacist for at least 40 hours as a
3 pharmacist as defined by Business and Professions Code section 4000 et seq.

4 **14. Violation of Probation**

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

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

17 **15. Completion of Probation**

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

20 **16. Pharmacists Recovery Program (PRP)**

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

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

1 his current contract and any subsequent addendums with the PRP.

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

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

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

10 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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

27 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
28 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid

1 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

2 **17. Random Drug Screening**

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

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

27 During suspension, respondent shall not engage in any activity that requires the
28 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
2 designated representative for any entity licensed by the board.

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

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

7 **18. Abstain from Drugs and Alcohol Use**

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

19 **19. Prescription Coordination and Monitoring of Prescription Use**

20 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
21 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
22 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
23 history with the use of alcohol and who will coordinate and monitor any prescriptions for
24 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved
25 practitioner shall be provided with a copy of the board's Accusation and decision. A record of
26 this notification must be provided to the board upon request. Respondent shall sign a release
27 authorizing the practitioner to communicate with the board about respondent's treatment(s). The
28 coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the

1 board on a quarterly basis for the duration of probation regarding respondent's compliance with
2 this condition. If any substances considered addictive have been prescribed, the report shall
3 identify a program for the time limited use of any such substances. The board may require that
4 the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a
5 specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent,
6 for any reason, cease supervision by the approved practitioner, respondent shall notify the board
7 immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement
8 physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the
9 board or its designee for its prior approval. Failure to timely submit the selected practitioner or
10 replacement practitioner to the board for approval, or to ensure the required reporting thereby on
11 the quarterly reports, shall be considered a violation of probation.

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

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

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

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

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

5 **20. Supervised Practice**

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

11 Continuous – At least 75% of a work week;

12 Substantial - At least 50% of a work week;

13 Partial - At least 25% of a work week;

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

15 Within thirty (30) days of the effective date of this decision, respondent shall have his
16 supervisor submit notification to the board in writing stating that the supervisor has read the
17 decision in case number 4796 and is familiar with the required level of supervision as determined
18 by the board or its designee. It shall be the respondent's responsibility to ensure that his
19 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
20 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
21 acknowledgements to the board shall be considered a violation of probation.

22 If respondent changes employment, it shall be the respondent's responsibility to ensure that
23 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
24 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
25 commences, submit notification to the board in writing stating the direct supervisor and
26 pharmacist-in-charge have read the decision in case number 4796 and is familiar with the level of
27 supervision as determined by the board. Respondent shall not practice pharmacy and his license
28 shall be automatically suspended until the board or its designee approves a new supervisor.

1 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
2 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

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

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

28 \\

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

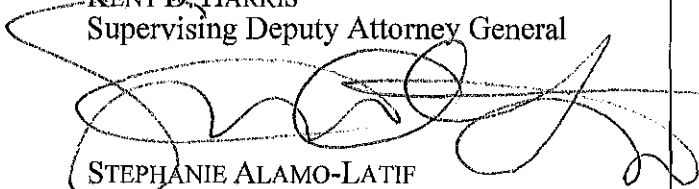
ENDORSEMENT

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

Dated: 6/2/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General



STEPHANIE ALAMO-LATIF
Deputy Attorney General
Attorneys for Complainant

SA2013112056
11359004.doc

Exhibit A

Accusation No. 4796

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-6819
Facsimile: (916) 327-8643
7 E-mail: Stephanie.AlamoLatif@doj.ca.gov
Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 4796

13 **NICHOLAS CAL VANDERSLOOT**
415 E. Modoc St.
14 Alturas, CA 96101

ACCUSATION

15 **Pharmacist License No. 66743**

16 Respondent.
17

18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about December 19, 2011, the Board of Pharmacy issued Pharmacist License
23 Number 66743 to Nicholas Cal Vandersloot ("Respondent"). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on February 28,
25 2015, unless renewed.

26 ///

27 ///

28 ///

1 JURISDICTION

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

5 4. Code section 4300 states, in pertinent part, that every license issued may be suspended
6 or revoked.

7 5. Code section 4300.1 states:

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

13 STATUTORY PROVISIONS

14 6. Code section 4301 states, in pertinent part:

15 The board shall take action against any holder of a license who is guilty of unprofessional
16 conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

17 ...
18 (h) The use of any alcoholic beverages to the extent or in a manner as to be dangerous or
19 injurious to oneself,, or to any other person or to the public, or to the extent that the use impairs
20 the ability of the person to conduct with safety to the public the practice authorized by the license.

21 ...
22 (i) The conviction of a crime substantially related to the qualifications, functions, and duties
23 of a licensee under this chapter.

24 ...
25 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable
27 federal and state laws and regulations governing pharmacy, including regulations established by the
28 board or by any other state or federal regulatory agency."

1 COST RECOVERY

2 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 FIRST CAUSE FOR DISCIPLINE

9 (Conviction of Crime)

10 8. Respondent is subject to discipline under Code section 4301, subdivision (l), in that on
11 about April 23, 2013, in the matter of *People v. Nicholas Vandersloot* (Superior Court, Modoc
12 County Case No. M-13-144), Respondent was convicted on his plea of guilty of violating Penal
13 Code section 647, subdivision (f) (Public Intoxication), a misdemeanor. The circumstances are as
14 follows:

15 9. On or about March 29, 2013 at approximately 11:5 p.m., while patrolling the streets of
16 Alturas, Officer Dowdy located Respondent walking and staggering in a serpentine manner on
17 Modoc Street. Upon contacting Respondent, the officer found Respondent to be extremely
18 intoxicated. During the investigation, the officer found Respondent had an unsteady gait, and odor
19 of unknown alcoholic beverage emitting from his person, and extremely slurred speech. In
20 addition, during the entire time the officer interviewed Respondent, other than when he obtained
21 his wallet to provide his license, Respondent held onto a pole that supported a street sign, with his
22 left hand, to help him maintain his balance. Respondent also swayed in somewhat of a circular
23 motion as he held onto the pole. Respondent advised the officer that he was headed home,
24 located down the street. Upon completion of the interview, the officer found Respondent to be in
25 a public place, so intoxicated that he was unable to care for his own safety. Respondent was
26 arrested for violation of Penal Code section 647, subdivision (f) (Public Intoxication). Respondent
27 was transported to the Modoc County Jail, and submitted to a breath sample. Respondent's breath
28 sample returned a blood alcohol content (BAC) of .34%.

