

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

In the Matter of the Accusation Against:

**ISMAEL CASTILLO
6465 Palm Ave.
San Bernardino, CA 92407**

Pharmacist License No. RPH 64666

Respondent.

Case No. 4995

OAH No. 2017010190

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on June 8, 2017.

It is so ORDERED on May 9, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

RECEIVED

04/06/2017

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

11
12 In the Matter of the Accusation Against:

Case No. 4995

13 ISMAEL CASTILLO
14 6465 Palm Ave.
15 San Bernardino, CA 92407

OAH No. 2017010190

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 Pharmacist License No. RPH 64666

17 Respondent.

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). She brought this action solely in her official capacity and is represented in this matter by
24 Xavier Becerra, Attorney General of the State of California, by Lisa A. Miller, Deputy Attorney
25 General.

26 2. Ismael Castillo (Respondent) is represented in this proceeding by attorney Michael A.
27 Soafiddi, whose address is 432 North Arrowhead Ave., San Bernardino, CA 92401.
28

3. On or about September 30, 2010, the Board issued Pharmacist License No. RPH 64666 to Ismael Castillo (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 4995 and expired on November 30, 2015. It was not renewed.

JURISDICTION

4. Accusation No. 4995 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 30, 2016. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 4995 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4995. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 4995, agrees that cause exists for discipline and hereby surrenders his Pharmacist License No. RPH 64666 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacist License without further process.

CONTINGENCY

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

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 64666, issued to Respondent Ismael Castillo, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent.

1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the Board of Pharmacy.

3 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
4 effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
8 the Board shall treat it as a new application for licensure. Respondent may not apply for any
9 license, permit, or registration from the board for three years from the effective date of this
10 decision. Respondent stipulates that should he or she apply for any license from the board on or
11 after the effective date of this decision, all allegations set forth in the accusation shall be deemed
12 to be true, correct and admitted by respondent when the board determines whether to grant or
13 deny the application. Respondent shall satisfy all requirements applicable to that license as of the
14 date the application is submitted to the board, including, but not limited to taking and passing the
15 California Pharmacist Licensure Examination prior to the issuance of a new license. Respondent
16 is required to report this surrender as disciplinary action.

17 5. Respondent stipulates that should he apply for any license from the Board on or after
18 the effective date of this decision, investigation and prosecution costs in the amount of \$9,570
19 shall be paid to the Board prior to issuance of the license.

20 6. If Respondent should ever apply or reapply for a new license or certification, or
21 petition for reinstatement of a license, by any other health care licensing agency in the State of
22 California, all of the charges and allegations contained in Accusation No. 4995 shall be deemed to
23 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
24 other proceeding seeking to deny or restrict licensure.

25
26 ACCEPTANCE

27 I have carefully read the above Stipulated Surrender of License and Order and have fully
28 discussed it with my attorney, Michael Scaffidi. I understand the stipulation and the effect it will

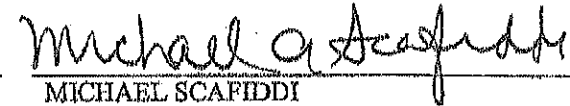
1 have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order
2 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
3 Board of Pharmacy.

4
5 DATED: 4/5/2017


ISMAEL CASTILLO
Respondent

7 I have read and fully discussed with Respondent Ismael Castillo the terms and conditions
8 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
9 and content.

10 DATED: April 5, 2017


MICHAEL SCAFFIDI
Attorney for Respondent


12
13 ENDORSEMENT

14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
15 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

16 Dated: 4/6/17

Respectfully submitted,

17 XAVIER BECERRA
Attorney General of California
18 LINDA L. SUN
Supervising Deputy Attorney General

19 
20 LISA A. MILLER
21 Deputy Attorney General
22 Attorneys for Complainant

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Exhibit A

Accusation No. 4995

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 KRITHHIKA VASUDEVAN
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 4995

12 ISMAEL CASTILLO
6465 Palm Ave.
13 San Bernardino, CA 92407

ACCUSATION

14 Pharmacist License No. RPH 64666

15 Respondent.

16
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 (Board).

21 2. On or about September 30, 2010, the Board of Pharmacy issued Pharmacist License
22 No. RPH 64666 to Ismael Castillo (Respondent). The Pharmacist License was in full force and
23 effect at all times relevant to the charges brought herein and expired November 30, 2015, and has
24 not been renewed.

25 JURISDICTION

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

28 //

1 4. Section 4300 of the Code states, in pertinent part, that every license issued by the
2 Board is subject to discipline, including suspension or revocation.

3 5. Section 4301 of the Code states:

4 "The board shall take action against any holder of a license who is guilty of unprofessional
5 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

6 Unprofessional conduct shall include, but is not limited to, any of the following:

7 "....

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

11

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

1"

2 6. Section 118 of the Code states:

3 "....

4 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
5 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
6 order of a court of law, or its surrender without the written consent of the board, shall not, during
7 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
8 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
9 provided by law or to enter an order suspending or revoking the license or otherwise taking
10 disciplinary action against the licensee on any such ground.

11 "(c) As used in this section, 'board' includes an individual who is authorized by any
12 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'
13 'registration,' and 'permit.'"

14 7. Section 490 of the Code states:

15 "(a) In addition to any other action that a board is permitted to take against a licensee, a
16 board may suspend or revoke a license on the ground that the licensee has been convicted of a
17 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
18 or profession for which the license was issued.

19 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
20 discipline a licensee for conviction of a crime that is independent of the authority granted under
21 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
22 of the business or profession for which the licensee's license was issued.

23 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
24 conviction following a plea of nolo contendere. Any action that a board is permitted to take
25 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
26 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
27 made suspending the imposition of sentence, irrespective of a subsequent order under the
28 provisions of Section 1203.4 of the Penal Code.

1"

2 8. Section 493 of the Code states:

3 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
4 the department pursuant to law to deny an application for a license or to suspend or revoke a
5 license or otherwise take disciplinary action against a person who holds a license, upon the
6 ground that the applicant or the licensee has been convicted of a crime substantially related to the
7 qualifications, functions, and duties of the licensee in question, the record of conviction of the
8 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
9 and the board may inquire into the circumstances surrounding the commission of the crime in
10 order to fix the degree of discipline or to determine if the conviction is substantially related to the
11 qualifications, functions, and duties of the licensee in question.

12 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
13 'registration.'"

14 REGULATORY PROVISIONS

15 9. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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

22 COST RECOVERY

23 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licensee found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
28 included in a stipulated settlement.

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FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

11. Respondent is subject to disciplinary action under sections 4301, subdivision (l), and 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacist. Specifically, on or about December 10, 2015, after pleading nolo contendere, Respondent was convicted of one felony count of violating Penal Code section 288 (c)(1) [lewd or lascivious acts with child 14 years of age] in the criminal proceeding entitled *The People of the State of California v. Ismael Castillo* (Super. Ct. San Bernardino County, 2015, No. FSB1304495). The Court sentenced Respondent to serve two (2) years in state prison, and register as a sex offender. The circumstances surrounding this conviction are that between February 2012 and October 2013, Respondent engaged in sexual intercourse with his daughter, who was 14 years old.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

12. Respondent is subject to disciplinary action under Code section 4301, subdivision (f) on the grounds of unprofessional conduct, in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 11 as though set forth fully.

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PRAYER

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

1. Revoking or suspending Pharmacy License Number RPH 64666, issued to Ismael Castillo;
2. Ordering Ismael Castillo to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

6/19/16

Virginia Herold

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

LA2015502233