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

In the Matter of the Accusation Against:

RICHARD WINFIELD MOORE III
83638 Himalaya Drive
Indio, CA 92203

Pharmacist License No. RPH 64771

Respondent.

Case No. 5110

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 8, 2015.

It is so ORDERED on August 7, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Amy Gutierrez, Pharm.D.
Board President
BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RICHARD WINFIELD MOORE III
83638 Himalaya Drive
Indio, CA 92203

Pharmacist License No. RPH 64771
Respondent.

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

PARTIES

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

2. Respondent Richard Winfield Moore III ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about October 5, 2010, the Board of Pharmacy issued Pharmacist License No. RPH 64771 to Richard Winfield Moore III (Respondent). The Pharmacist License was in full force and effect as of that date.

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force and effect at all times relevant to the charges brought in Accusation No. 5110 and will expire on December 31, 2015, unless renewed.

JURISDICTION

4. Accusation No. 5110 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 30, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 5110 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 5110. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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 be represented by counsel at his own expense; 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.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 5110.

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

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CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. 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 Settlement 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.

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

13. This Stipulated Settlement and Disciplinary 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 Settlement and Disciplinary 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.

14. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 64771 issued to Respondent Richard Winfield Moore III (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

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1. **Suspension**

As part of probation, respondent is suspended from the practice of pharmacy for 30 days beginning the effective date of this decision. This condition may be waived if Respondent has complied with this condition per the Board’s pharmacist's recovery program.

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

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.

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

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

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

2. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

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

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

3. Report to the Board

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

4. Interview with the Board

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

5. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's
monitoring and investigation of respondent's compliance with the terms and conditions of his
probation. Failure to cooperate shall be considered a violation of probation.
6. **Continuing Education**

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

7. **Notice to Employers**

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 5110 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

- Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5110, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 5110 in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he has read the decision in case number 5110 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the board shall be considered a violation of probation.
"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

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

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

9. **Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of $9,000.00. Respondent shall make said payments in a payment plan of $150.00 per month. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

10. **Probation Monitoring Costs**

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

11. **Status of License**

Respondent shall, at all times while on probation, maintain an active, current license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.
If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

12. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his license to the board for surrender. 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, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to the board within ten (10) days of notification by the board that the surrender is accepted.

Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent 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.

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

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

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

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

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

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

"Cessation of practice" means any calendar month during which respondent is not practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses medication for a minimum of one year prior to the completion of probation. After the first year of probation, the board or its designee may consider a modification of this requirement. If respondent fails to comply with this requirement or a subsequent modification thereto, such failure shall be considered a violation of probation.

15. **Violation of Probation**

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

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

16. **Completion of Probation**

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

17. **Pharmacists Recovery Program (PRP)**

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

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

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

   Probation shall be automatically extended until respondent successfully completes the PRP.
Any person terminated from the PRP program shall be automatically suspended by the board.
Respondent may not resume the practice of pharmacy until notified by the board in writing.
Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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

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

Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing probation. If respondent fails to do so, probation shall be automatically extended until this condition has been met. Failure to satisfy this condition within six (6) months beyond the original date of expiration of the term of probation shall be considered a violation of probation.
18. Random Drug Screening

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

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

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

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

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

19. Abstain from Drugs and Alcohol Use

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

20. Prescription Coordination and Monitoring of Prescription Use

Within thirty (30) days of the effective date of this decision, respondent shall submit to the
board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
history with the use of alcohol, controlled substances, and/or dangerous drugs and who will
coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
substances or mood-altering drugs. The approved practitioner shall be provided with a copy of
the board's Accusation and decision. A record of this notification must be provided to the board
upon request. Respondent shall sign a release authorizing the practitioner to communicate with
the board about respondent's treatment(s). The coordinating physician, nurse practitioner,
physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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

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

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

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

21. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the
board or its designee, for prior approval, a community service program in which respondent shall
provide free health-care related services on a regular basis to a community or charitable facility or
agency for at least 25 hours per year for a total of 125 hours of community service over the course
of probation. Respondent may perform more than 25 hours of service per year to accelerate
completion of the 125 hours requirement. Within thirty (30) days of board approval thereof,
respondent shall submit documentation to the board demonstrating commencement of the
community service program. A record of this notification must be provided to the board upon
request. Respondent shall report on progress with the community service program in the quarterly
reports. Failure to timely submit, commence, or comply with the program shall be considered a
violation of probation.

22. Supervised Practice

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

Continuous - At least 75% of a work week
Substantial - At least 50% of a work week
Partial - At least 25% of a work week
Daily Review - Supervisor's review of probationer's daily activities within 24 hours
Within thirty (30) days of the effective date of this decision, respondent shall have his supervisor submit notification to the board in writing stating that the supervisor has read the decision in case number 5110 and is familiar with the required level of supervision as determined by the board or its designee. It shall be the respondent’s responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

If respondent changes employment, it shall be the respondent’s responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15) days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 5110 and is familiar with the level of supervision as determined by the board. Respondent shall not practice pharmacy and his license shall be automatically suspended until the board or its designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

23. **No Ownership of Licensed Premises**

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

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

24. **Tolling of Suspension**

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

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

25. Ethics Course

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

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

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 7/10/15

RICHARD WINFIELD MOORE III
Respondent
ENDORSEMENT

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

Dated: July 15, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

Sherry L. Ledakis
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation No. 5110
BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

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Indio, CA 92203
Pharmacist License No. RPH 64771
Respondent.

Complainant alleges:

PARTIES
1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
2. On or about October 5, 2010, the Board of Pharmacy issued Pharmacist License Number RPH 64771 to Richard Winfield Moore III (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2015, unless renewed.

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JURISDICTION

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

4. Section 4300 of the Code states:
   (a) Every license issued may be suspended or revoked.

   (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

      (1) Suspending judgment.

      (2) Placing him or her upon probation.

      (3) Suspending his or her right to practice for a period not exceeding one year.

      (4) Revoking his or her license.

      (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

   (c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

      (1) Medical or psychiatric evaluation.

      (2) Continuing medical or psychiatric treatment.

      (3) Restriction of type or circumstances of practice.

      (4) Continuing participation in a board-approved rehabilitation program.

      (5) Abstention from the use of alcohol or drugs.

      (6) Random fluid testing for alcohol or drugs.

      (7) Compliance with laws and regulations governing the practice of pharmacy.

   (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

   (e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
Government Code, and the board shall have all the powers granted therein. The
action shall be final, except that the propriety of the action is subject to review by the
superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

STATUTORY PROVISIONS

5. Code Section 4059(a) states:

(a) A person may not furnish any dangerous drug, except upon the prescription
of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor,
pursuant to Section 3640.7. A person may not furnish any dangerous device, except
upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7.

6. Code Section 4060 states:

A person shall not possess any controlled substance, except that furnished to a
person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic
doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in
containers correctly labeled with the name and address of the supplier or producer.

This section does not authorize a certified nurse-midwife, a nurse practitioner, a
physician assistant, or a naturopathic doctor, to order his or her own stock of
dangerous drugs and devices.

7. 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:

... 

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

(g) Knowingly making or signing any certificate or other document that falsely
represents the existence or nonexistence of a state of facts.

... 

(j) The violation of any of the statutes of this state, or any other state, or of the
United States regulating controlled substances and dangerous drugs.
(o) Violating or attempting to violate, directly or indirectly, or assisting in or
abetting the violation of or conspiring to violate any provision or term of this chapter
or of the applicable federal and state laws and regulations governing pharmacy,
including regulations established by the board or by any other state or federal
regulatory agency.

8. Health and Safety Code Section 11170 states:

9. No person shall prescribe, administer, or furnish a controlled substance for
himself.

10. Health and Safety Code Section 11173 states:

(a) No person shall obtain or attempt to obtain controlled substances, or
procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
concealment of a material fact.

(b) No person shall make a false statement in any prescription, order, report, or
record, required by this division.

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, (CCR) Section 1714(d) states:

(d) Each pharmacist while on duty shall be responsible for the security of the
prescription department, including provisions for effective control against theft or
diversion of dangerous drugs and devices, and records for such drugs and devices.
Possession of a key to the pharmacy where dangerous drugs and controlled substances
are stored shall be restricted to a pharmacist.

COST RECOVERY

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

DRUGS
13. Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an amphetamine salt used for attention-deficit/hyperactivity disorder and narcolepsy.

14. Amphetamine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. Historically, it has been used to treat nasal congestion, depression, and obesity.

15. Benzoyl Peroxide is a flammable white granular solid used as a bleaching agent for flour, fats, waxes, and oils, as a polymerization catalyst, and in pharmaceuticals, especially to treat acne. It is not a controlled substance but it is a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct -- Acts of Moral Turpitude, Dishonesty, Fraud)

16. Respondent is subject to disciplinary action for unprofessional conduct under section 4301(f) of the Code in that he committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption, when he unlawfully obtained controlled substances from his place of employment for his own personal use. The circumstances are as follows:

17. Respondent worked as the Pharmacist-in-Charge at the Rite Aid Pharmacy # 5673 in Blythe, California from October 30, 2011 until his termination on December 19, 2012. In 2012, Respondent forged prescriptions for Schedule II controlled substances and dangerous drugs for himself and filled those prescriptions at Rite Aid and CVS Pharmacies in California. Respondent was able to do this because of his background and knowledge as a pharmacist. Normally, prescriptions are entered into a computer database either by a pharmacist or ancillary staff, then filled by the pharmacist or a pharmacy technician. The pharmacist then reviews the prescription a final time for accuracy before releasing it to the patient.
18. A complete audit was performed at the Rite Aid and CVS stores where Respondent filled the fraudulent prescriptions which revealed the following discrepancies attributable to Respondent:

**Prescription #1244030 Processed at Rite Aid Store #5678:**

19. On or about January 18, 2011, Respondent received a prescription for Adderall XR 20 mg #60, from a physician in Rhode Island. On February 2, 2011, Respondent filled this prescription for himself at Rite Aid Store #5678, in Coachella, California. Respondent performed the data entry and the final review of this prescription indicating the prescription was verified and accurate when he knew it was illegal to furnish controlled substances to himself.

**Prescription #772920:**

20. On or about February 22, 2011, Respondent obtained Rx #772920 from a physician in Rhode Island for Adderall (dextroamphetamine) XR 20mg capsules. Respondent filled this prescription for himself on March 7, 2011, at Rite Aid Store #5679, in Desert Hot Springs, California. Respondent entered this prescription into the computer data base and audited it himself as being accurate when he knew it was illegal to furnish controlled substances to himself.

**Prescription #780095:**

21. On or about April 7, 2011, Respondent obtained Rx #780095 for Adderall XR 20mg #30, to be taken one tablet once per day, from a physician in Rhode Island. On April 18, 2011, Respondent filled this prescription for himself at Rite Aid Store #5679 in Desert Hot Springs, California, and audited it himself as being verified and accurate, when he knew it was illegal to furnish controlled substances to himself.

**Prescription #215038, #574625 and #577180**

22. On or about January 23, 2012, Respondent obtained Rx #215038 for Adderall 20 mg, #60 tablets to be taken two tablets twice per day from a physician in Bermuda Dunes, California. Respondent filled this prescription on January 23, 2012 at the pharmacy in CVS Store #9153. The pharmacist on duty, KS, changed the prescription to 10mg, #120. Respondent obtained a copy of this prescription.
23. On or about March 15, 2012, Respondent fraudulently used a copy of Rx #215038 to
create and process Rx #574625 as if it was a new prescription, and reported it to CURES\(^1\) as
Adderall 10 mg tablets, #120. There is no image of Rx #574625, but it is the same medication,
with the same directions for use and quantity as Rx #215038. Thereafter, Respondent changed the
prescription number again to Rx #577180, and filled it again at Rite Aid Store #5673 on March 15,
2012. Rx #577180 was not reported to CURES. Respondent admitted to investigators that he
had the Rx #215038 altered without the physician's consent or knowledge.

**Prescription #577967, Altered Prescription**

24. Sometime in 2011, Respondent received a prescription for Adderall XR 20 mg, #30
tables for himself from a physician in Rhode Island. Sometime between 2011 and April 4, 2012,
Respondent altered this prescription and processed it under Rx #577967. Respondent altered the
prescription by folding the right corner of the prescription down to cover the true date and then
added a new date of “2/2/12” under the original date line. Respondent then filled it himself on
April 4, 2012, at Rite Aid Store #5673, in Blythe, California. The physician clearly wrote the
prescription for #30 tablets however; the box for #101-150 capsules had been checked. This
prescribing physician, however, did not write any prescriptions for Respondent after 2011.

**Prescriptions #581756 and #586485, Same Prescription Filled Three Times**

25. On or about April 25, 2012, a CURES report indicated that Respondent obtained
amphetamine salts 20 mg tablet, #60, for himself at Rite Aid Store #5673 under Rx #581756. The
same day, Respondent changed Rx #581756 to Rx #586485. Rx #586485 was never reported to
CURES. Nevertheless, the same prescription was filled twice by Respondent on April 25, 2012 as
two different prescriptions. On or about May 1, 2012, Respondent again filled Rx #581756 as Rx
#586485 for himself as if it were a new prescription. Subsequently, on May 28, 2012, Respondent
used this same prescription a third time and filled it again; however, he did not change the
prescription number. There is not a hard copy or an image of this prescription anywhere in the

\(^1\) CURES is an acronym for Controlled Substance Utilization Review and Evaluation
System, a program administered by the California Department of Justice to decrease the amount of
prescription drug abuse.
records; however, Respondent verified that the prescription was accurate.

**Prescription #586486**

26. On or about May 28, 2012, Respondent filled Rx #586486 for himself for Benzoyl Peroxide 5% Wash, #237 ml. Although this is not a controlled substance, it is a dangerous drug that requires a prescription pursuant to Business and Professions Code section 4022. There is not a hard copy of the prescription; however there is a computer print-out that indicated the prescription was written on March 27, 2012, and filled on May 28, 2012, and that Respondent reviewed the prescription himself for accuracy.

**Prescription #608117**

27. On or about October 11, 2012, Respondent filled Rx #608117 for himself for Amphetamine salts 20mg, #43 tablets at Rite Aid Store #5673. This location does not have a hard copy of this prescription but there is a computer print-out documenting the prescription was for Respondent, and that Respondent entered the prescription into the computer data base and verified the prescription for accuracy when he knew it was illegal to furnish controlled substances to himself.

28. According to the Department of Justice, Respondent obtained 1,110 tablets/capsules of amphetamine salts over a twenty-two (22) month period. This is an average of over 50 tablets/capsules per month. Although, not all the prescriptions that Respondent filled for himself are listed on the CURES report, for example Respondent obtained amphetamine salts under Rx #586485 on three different occasions, and Respondent processed Rx #215038 under Rx #577180 and Rx #574625, but never reported these prescriptions to CURES.

29. During a discussion with investigators for Rite Aid, and the Board of Pharmacy, Respondent admitted that he had falsified prescriptions for amphetamines. In a written statement Respondent admitted that the reason there were no hard copies of the prescriptions at Rite Aid Store #5673 was because he had the prescriptions filled at CVS pharmacies and felt compelled to fill them again at Rite Aid without the hard copy.
SECOND CAUSE FOR DISCIPLINE
(Unprofessional Conduct – Signing False Documents)
30. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301(g) by knowingly making or signing a certificate or other document that falsely represented the existence or nonexistence of a state of facts, as set forth above in paragraphs 16 through 29, which are incorporated by reference.

THIRD CAUSE FOR DISCIPLINE
(Unprofessional Conduct – Unlawfully Possessed and Furnished Dangerous Drugs)
31. Respondent is subject to disciplinary action for unprofessional conduct under Code sections 4059 and 4060 pursuant to Code section 4301 subsections (j) and (o), in that he possessed and furnished dangerous drugs to himself without a prescription from a physician or other qualified prescriber, as set forth above in paragraphs 16 through 29, which are incorporated by reference.

FOURTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct – Fraud, Deceit, Subterfuge)
32. Respondent is subject to disciplinary action under Health and Safety Code sections 11170 and 11173(a), pursuant to Code section 4301, subsections (j) and (o), in that he possessed and furnished controlled substances to himself by fraud, deceit, misrepresentation, or subterfuge, as set forth above in paragraphs 16 through 29, which are incorporated by reference.

FIFTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct – False Statements in Prescriptions, Records, Reports)
33. Respondent is subject to disciplinary action under Health and Safety Code section 11173(b), pursuant to Code section 4301, subsections (j) and (o), in that he made false statements in prescriptions, reports, or records required by the Pharmacy Practice Act, and as set forth above in paragraphs 16 through 29, which are incorporated by reference.

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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 Pharmacist License Number RPH 64771, issued to Richard Winfield Moore, III;

2. Ordering Richard Winfield Moore, III 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; and

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

Dated: 6/16/14

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