

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

In the Matter of the Accusation Against:

ANDREW PAUL CARROLL
1639 Tivoli Drive
Redlands, CA 92374

Pharmacist License No. RPH 60030

Case No. 5216

OAH No. 2015070950

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 at 5:00 p.m. on June 30, 2016.

It is so ORDERED on May 31, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

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13 **ANDREW PAUL CARROLL**
1639 Tivoli Drive
Redlands, CA 92374

OAH No. 2015070950

14 **Pharmacist License No. RPH 60030**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 **PARTIES**

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

25 2. Respondent Andrew Paul Carroll (Respondent) is represented in this proceeding by
26 attorney Ivan Petrzelka, whose address is: California Pharmacy Lawyers, Law Office of Tony J.
27 Park, Inc., 2855 Michelle Drive, Suite 180, Irvine, California 92606-1027.

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1 3. On or about September 12, 2007, the Board issued Pharmacist License No. RPH
2 60030 to Respondent. The Pharmacist License was in full force and effect at all times relevant to
3 the charges brought in Accusation No. 5216 and will expire on August 31, 2017, unless renewed.

4 **JURISDICTION**

5 4. Accusation No. 5216 was filed before the Board, Department of Consumer Affairs,
6 and is currently pending against Respondent. The Accusation and all other statutorily required
7 documents were properly served on Respondent on June 29, 2015. Respondent timely filed his
8 Notice of Defense contesting the Accusation.

9 5. A copy of Accusation No. 5216 is attached as exhibit A and incorporated herein by
10 reference.

11 **ADVISEMENT AND WAIVERS**

12 6. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 5216. Respondent has also carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
15 Order.

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

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

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 5216, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. 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.

CONTINGENCY

12. 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 settlement, 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 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.

13. 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.

14. 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

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Pharmacist License No. RPH 60030 issued to Respondent
8 is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5)
9 years on the following terms and conditions.

10 **1. Obey All Laws**

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

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

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

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

25 **2. Report to the Board**

26 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
27 designee. The report shall be made either in person or in writing, as directed. Among other
28 requirements, Respondent shall state in each report under penalty of perjury whether there has

1 been compliance with all the terms and conditions of probation. Failure to submit timely reports
2 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
3 in submission of reports as directed may be added to the total period of probation. Moreover, if
4 the final probation report is not made as directed, probation shall be automatically extended until
5 such time as the final report is made and accepted by the Board.

6 **3. Interview with the Board**

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

12 **4. Cooperate with Board Staff**

13 Respondent shall cooperate with the Board's inspection program and with the Board's
14 monitoring and investigation of Respondent's compliance with the terms and conditions of his
15 probation. Failure to cooperate shall be considered a violation of probation.

16 **5. Continuing Education**

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

19 **6. Notice to Employers**

20 During the period of probation, Respondent shall notify all present and prospective
21 employers of the decision in case number 5216 and the terms, conditions and restrictions imposed
22 on Respondent by the decision, as follows:

23 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
24 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
25 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
26 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
27 individual(s) has/have read the decision in case number 5216, and terms and conditions imposed
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1 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
2 supervisor(s) submit timely acknowledgment(s) to the Board.

3 If Respondent works for or is employed by or through a pharmacy employment service,
4 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
5 licensed by the Board of the terms and conditions of the decision in case number 5216 in advance
6 of the Respondent commencing work at each licensed entity. A record of this notification must
7 be provided to the Board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of Respondent undertaking any new employment by or through a pharmacy
10 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
11 service to report to the Board in writing acknowledging that he has read the decision in case
12 number 5216 and the terms and conditions imposed thereby. It shall be Respondent's
13 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
14 acknowledgment(s) to the Board.

15 Failure to timely notify present or prospective employer(s) or to cause that/those
16 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
17 probation.

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

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

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

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1 **8. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, Respondent shall pay to the
3 Board its costs of investigation and prosecution in the amount of \$4,072.50. Respondent shall be
4 allowed to make payments on a schedule approved in writing by the Board or its designee. There
5 shall be no deviation from this schedule absent prior written approval by the Board or its
6 designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
7 probation.

8 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
9 reimburse the Board its costs of investigation and prosecution.

10 **9. Probation Monitoring Costs**

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

15 **10. Status of License**

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

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

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

24 Following the effective date of this decision, should Respondent cease practice due to
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
26 Respondent may tender his license to the Board for surrender. The Board or its designee shall
27 have the discretion whether to grant the request for surrender or take any other action it deems
28 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent

1 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
2 record of discipline and shall become a part of the Respondent's license history with the Board.

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

9 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

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

16 Failure to timely notify the Board of any change in employer(s); name(s), address(es), or
17 phone number(s) shall be considered a violation of probation.

18 **13. Tolling of Probation**

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

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

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

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

11 **14. Violation of Probation**

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

17 If Respondent violates probation in any respect, the Board, after giving Respondent notice
18 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
19 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
20 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
21 a petition to revoke probation or an accusation is filed against Respondent during probation, the
22 Board shall have continuing jurisdiction and the period of probation shall be automatically
23 extended until the petition to revoke probation or accusation is heard and decided, and the charges
24 and allegations in the Accusation shall be deemed true and correct.

25 **15. Completion of Probation**

26 Upon written notice by the Board or its designee indicating successful completion of
27 probation, Respondent's license will be fully restored.

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1 **16. Suspension**

2 As part of probation, Respondent is suspended from the practice of pharmacy beginning the
3 effective date of this decision until deemed safe to practice by the Pharmacists Recovery
4 Program.

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

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

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

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

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

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

27 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
28 of the effective date of this decision is no longer considered a self-referral under Business and

1 Professions Code section 4362, subdivision (c)(2). Respondent shall successfully participate in
2 and complete his current contract and any subsequent addendums with the PRP.

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

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

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

12 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

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

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

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

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

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

4 **18. Random Drug Screening**

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

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

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

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

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

9 **19. Abstain from Drugs and Alcohol Use**

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

21 **20. Prescription Coordination and Monitoring of Prescription Use**

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

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

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

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
4 any licensed premises in which he holds an interest at the time this decision becomes effective
5 unless otherwise specified in this order.

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

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

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

15 **22. Tolling of Suspension**

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

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

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23. 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.

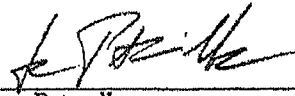
Respondent shall submit a certificate of completion to the Board or its designee within five days after completing the course.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ivan Petrzelka. 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: 3-10-2016 
ANDREW PAUL CARROLL
Respondent

I have read and fully discussed with Respondent Andrew Paul Carroll the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: March 10, 2016 
Ivan Petrzelka
Attorney for Respondent

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ENDORSEMENT

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

Dated: 3/11/16

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


BORA S. MCCUTCHEON
Deputy Attorney General
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Exhibit A

Accusation No. 5216

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7

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

11 In the Matter of the Accusation Against:
12 **ANDREW PAUL CARROLL**
1639 Tivoli Drive
13 Redlands, CA 92374
14 **Pharmacist License No. RPH 60030**
15 Respondent.

Case No. 5216

ACCUSATION

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
22 2. On or about September 12, 2007, the Board issued Pharmacist License Number RPH
23 60030 to Andrew Paul Carroll (Respondent). The Pharmacist License was in full force and effect
24 at all times relevant to the charges brought herein and will expire on August 31, 2015, unless
25 renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board, under the authority of the following
28 laws.

1 4. Section 4300 provides that every license issued by the Board is subject to discipline,
2 including suspension or revocation.

3 5. Section 4300.1 states:

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

8 STATUTORY PROVISIONS

9 6. Business and Professions Code section 490¹ states, in pertinent part:

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

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

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

27 7. Section 493 states:

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

¹ All further statutory references are to the Business and Professions Code unless
otherwise indicated.

1 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
2 and 'registration.'

3 8. Section 4301 states:

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

8 ...
9 (h) The administering to oneself, of any controlled substance, or the use
10 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
11 dangerous or injurious to oneself, to a person holding a license under this chapter, or
12 to any other person or to the public, or to the extent that the use impairs the ability of
13 the person to conduct with safety to the public the practice authorized by the license.

14 ...
15 (k) The conviction of more than one misdemeanor or any felony involving
16 the use, consumption, or self-administration of any dangerous drug or alcoholic
17 beverage, or any combination of those substances.

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

REGULATORY PROVISION

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

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

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COST RECOVERY

10. Section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent committed an act of unprofessional conduct when on March 10, 2014, in *People v. Andrew Paul Carroll* (Super. Ct., Inyo County, 2014, No. MB-CR-M-13-0056042), Respondent was convicted of one count of public intoxication (Pen. Code, § 647, subd. (f)). The Court sentenced Respondent to three years summary probation. The conviction was based upon the following allegations:

12. On or about November 17, 2013, an Inyo County Sheriff's Deputy was dispatched to Paiute Palace Casino in Bishop, California, regarding an intoxicated male subject causing a disturbance. When the Sheriff's Deputy arrived at the casino, he saw a Paiute Palace Casino Security Guard on top of Respondent, who was laying face down on the concrete. When the Sheriff's Deputy approached Respondent, he observed that Respondent's eyes were red and watery, that his speech was slurred, and that a strong odor of an alcoholic beverage was coming from Respondent's breath and person. According to witnesses from the casino, Respondent had been inside the casino gambling, and while he was waiting at the cashier's cage, he exposed his penis and began to urinate on the casino floor in front of other patrons. The security personnel from the casino escorted Respondent out of the casino, and once outside, Respondent began to flail his hands. Based on Respondent's behavior, the security guard placed Respondent on the ground for safety.

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SECOND CAUSE FOR DISCIPLINE
(Conviction Involving an Alcoholic Beverage)

13. Respondent is subject to disciplinary action under section 4301, subdivision (k), in that Respondent committed an act of unprofessional conduct when he was convicted of a misdemeanor involving the use, consumption, or self-administration of an alcoholic beverage. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 11 and 12, above.

THIRD CAUSE FOR DISCIPLINE
(Dangerous Use of Alcohol)

14. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that Respondent committed an act of unprofessional conduct when he used an alcoholic beverage to the extent or in a manner as to be dangerous or injurious to himself or to another person or the public. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraph 12, above.

DISCIPLINARY CONSIDERATIONS

15. In order to determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges the following:

16. On or about August 1, 2013, the Board issued Citation and Fine No. CI 2012-54852 to Respondent for violations of section 4301, subdivisions (h) and (i). The Citation and Fine were based on Respondent's November 29, 2012 arrest for driving under the influence of alcohol or drugs and driving with a blood-alcohol content of 0.08% or more, and Respondent's June 5, 2013 conviction for reckless driving (Veh. Code, § 23103, subd. (a)).

PRAYER

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

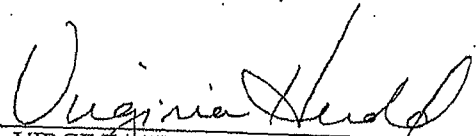
1. Revoking or suspending Pharmacist License Number RPH 60030, issued to Respondent;

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2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3;

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

DATED: 5/28/15



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

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