

# ERRATA

## Corrections to Stipulated Settlement and Disciplinary Order Case No. 5489

Stipulated Settlement and Disciplinary Order Case No. 5489, contains references to Pharmacy Permit No. PHY 49115 in the underlying disciplinary action entitled “In the Matter of the Accusation against Anderson Bros. Town & Country Pharmacy Inc. and Stephen Vincent Anderson” which, pursuant to a decision of the Board of Pharmacy became effective June 17, 2016. The Decision and Order page mistakenly referenced Pharmacy Permit No. PHY 49260 rather than Pharmacy Permit No. 49115. This clerical error is hereby corrected as part of the Board’s Stipulated Settlement and Disciplinary Order. This Errata page shall become part of Respondent’s disciplinary history with the Board. For the purposes of correcting the record, the following changes are hereby made to the Decision and Order:

Decision and Order:

Caption Box: Substitute “49260” for “49115”

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

In the Matter of the Accusation Against:

**ANDERSON BROS. TOWN & COUNTRY  
PHARMACY, INC.**

**Stephen Vincent Anderson, President**

**John Harold Anderson, Secretary**

**2900 Fulton Avenue  
Sacramento, CA 95821**

**Pharmacy Permit No. PHY 49260**

**AND**

**STEPHEN VINCENT ANDERSON,**

**Pharmacist-In-Charge**

**2900 Fulton Avenue  
Sacramento, CA 95821**

**Pharmacist License No. RPH 42685**

Respondents.

Case No. 5489

OAH No. 2015100370

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**(ANDERSON BROS. TOWN &  
COUNTRY PHARMACY, INC.)**

**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 17, 2016.

It is so ORDERED on May 18, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

**ORIGINAL**

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

11 In the Matter of the Accusation Against:

Case No. 5489

12 **ANDERSON BROS. TOWN & COUNTRY**  
**PHARMACY INC.**

OAH No. 2015100370

13 **Stephen Vincent Anderson, President**  
**John Harold Anderson, Secretary**  
14 **2900 Fulton Avenue**  
**Sacramento, California 95821**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

**(ANDERSON BROS. TOWN &**  
**COUNTRY PHARMACY, INC.)**

15  
16 **Pharmacy Permit Number No. PHY 49115**

17 **STEPHEN VINCENT ANDERSON,**  
**Pharmacist-In-Charge**  
18 **2900 Fulton Avenue**  
**Sacramento, California 95821**

19 **Pharmacist License Number No. RPH 42685**

20  
21 Respondents.

22  
23 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-  
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy  
27 ("Board"), Department of Consumer Affairs. She brought this action solely in her official  
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1 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of  
2 California, by Leslie A. Burgermyer, Deputy Attorney General.

3 2. Respondent Anderson Bros. Town & Country Pharmacy, Inc. ("Respondent Anderson  
4 Bros." or "Respondent") is represented in this proceeding by attorney Tony J. Park, Esq., and  
5 Ivan Petrzelka, Esq., whose address is: California Pharmacy Lawyers, Law Office of Tony J.  
6 Park, Inc., 2855 Michelle Drive, Suite 180, Irvine, CA 92606-1027.

7 3. On or about September 11, 2008, the Board issued Pharmacy Permit Number No.  
8 PHY 49115 to Respondent Anderson Bros. The Pharmacy Permit Number was in full force and  
9 effect at all times relevant to the charges brought in Accusation No. 5489 and will expire on  
10 September 1, 2016, unless renewed.

#### 11 JURISDICTION

12 5. Accusation No. 5489 was filed before the Board of Pharmacy and is currently pending  
13 against Respondent Anderson Bros. The Accusation and all other statutorily required documents  
14 were properly served on Respondent on September 23, 2015. Respondent timely filed its Notice  
15 of Defense contesting the Accusation.

16 6. A true and correct copy of Accusation No. 5489 is attached hereto, marked Exhibit A,  
17 and incorporated herein by reference.

#### 18 ADVISEMENT AND WAIVERS

19 7. Respondent Anderson Bros. has carefully read, fully discussed with counsel, and  
20 understands the charges and allegations in Accusation No. 5489. Respondent has also carefully  
21 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
22 Disciplinary Order.

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

3 9. Respondent Anderson Bros. voluntarily, knowingly, and intelligently waives and gives  
4 up each and every right set forth above.

5 **CULPABILITY**

6 10. Respondent Anderson Bros. understands and agrees that the charges and allegations  
7 in Accusation No. 5489, if proven at a hearing, constitute cause for imposing discipline under its  
8 license.

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

13 12. Respondent Anderson Bros. agrees that its Pharmacy Permit Number PHY 49115 is  
14 subject to discipline and it agrees to be bound by the Board's probationary terms as set forth in the  
15 Disciplinary Order below.

16 **CONTINGENCY**

17 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
18 Anderson Bros. understands and agrees that counsel for Complainant and the staff of the Board of  
19 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,  
20 without notice to or participation by Respondent or its counsel. By signing the stipulation,  
21 Respondent understands and agrees that they may not withdraw its agreement or seek to rescind  
22 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt  
23 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall  
24 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
25 between the parties, and the Board shall not be disqualified from further action by having  
26 considered this matter.

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

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

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

13 **DISCIPLINARY ORDER**

14 **IT IS HEREBY ORDERED** that Pharmacy Permit Number No. PHY 49115 issued to  
15 Respondent Anderson Bros. Town & Country Pharmacy Inc. ("Respondent Anderson Bros." or  
16 "Respondent") is revoked. However, the revocation is stayed and Respondent is placed on  
17 probation for four (4) years on the following terms and conditions.

18 1. **Obey All Laws.** Respondent Anderson Bros. shall obey all state and federal laws and  
19 regulations. Respondent shall report any of the following occurrences to the board, in writing,  
20 within seventy-two (72) hours of such occurrence:

21  an arrest or issuance of a criminal complaint for violation of any provision of  
22 the Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
23 substances laws

24  a plea of guilty or nolo contendere in any state or federal criminal proceeding to  
25 any criminal complaint, information or indictment

26  a conviction of any crime

27  discipline, citation, or other administrative action filed by any state or federal  
28 agency which involves Respondent's Pharmacy Permit or which is related to the practice of

1 pharmacy or the manufacturing, obtaining, handling or distributing, billing, or charging for any  
2 drug, device or controlled substance.

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

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

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

20 **4. Cooperate with Board Staff.** Respondent Anderson Bros. shall cooperate with the  
21 Board's inspection program and with the Board's monitoring and investigation of Respondent's  
22 compliance with the terms and conditions of their probation. Failure to cooperate shall be  
23 considered a violation of probation.

24 **5. Reimbursement of Board Costs.** As a condition precedent to successful completion  
25 of probation, Respondent Anderson Bros. and Respondent Stephen Vincent Anderson,  
26 Pharmacist-in-Charge, (collectively referred to in this paragraph 5 as "Respondents") shall be  
27 jointly and severally liable for payment of the cost recovery in this matter and shall pay to the

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1 board its costs of investigation and prosecution in the amount of \$7,154.75, and payable under  
2 terms to be determined by the Board or its designee.

3 The filing of bankruptcy by Respondent Anderson Bros. and/or by Respondent  
4 Stephen Vincent Anderson, Pharmacist-in-Charge shall not relieve Respondents of their  
5 responsibility to reimburse the Board its costs of investigation and prosecution.

6 **6. Probation Monitoring Costs.** Respondent Anderson Bros. shall pay any costs  
7 associated with probation monitoring as determined by the Board each and every year of  
8 probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its  
9 designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation  
10 of probation.

11 **7. Status of License.** Respondent Anderson Bros. shall, at all times while on probation,  
12 maintain current licensure with Board. If Respondent submits an application to the Board, and  
13 the application is approved, for a change of location, change of permit or change of ownership,  
14 the Board shall retain continuing jurisdiction over the license, and the Respondent shall remain on  
15 probation as determined by the Board. Failure to maintain current licensure shall be considered a  
16 violation of probation.

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

21 During the probationary period, if Respondent Anderson Bros. relocates from 2900  
22 Fulton Avenue, Sacramento, California 95821, to a different location, the Board shall retain  
23 jurisdiction over Respondent Anderson Bros. Respondent's relocation from the aforementioned  
24 address to a different location shall not be considered a violation of this paragraph 7.

25 **8. License Surrender While on Probation and/or Suspension.** Following the effective  
26 date of this decision, should Respondent Anderson Bros. discontinue business, Respondent may  
27 tender the premises license to the Board for surrender. The Board or its designee shall have the  
28 discretion whether to grant the request for surrender or take any other action it deems appropriate



1 and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no  
2 longer be subject to the terms and conditions of probation.

3           Upon acceptance of the surrender, Respondent Anderson Bros. shall relinquish the  
4 premises and renewal license to the Board within ten (10) days of notification by the Board  
5 that the surrender is accepted. Respondent shall further submit a completed Discontinuance of  
6 Business form according to board guidelines and shall notify the board of the records inventory  
7 transfer.

8           During the probationary period, if Respondent Anderson Bros. relocates from 2900  
9 Fulton Avenue, Sacramento, California 95821, to a different location, the Board shall retain  
10 jurisdiction over Respondent Anderson Bros. Relocation shall not be considered a surrender of  
11 license as provided in this paragraph 8.

12           Respondent Anderson Bros. shall also, by the effective date of this decision, arrange  
13 for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a  
14 written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and  
15 that identifies one or more area pharmacies capable of taking up the patients' care, and by  
16 cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients.  
17 Within five (5) days of its provision to the pharmacy's ongoing patients, Respondent shall provide  
18 a copy of the written notice to the board. For the purposes of this provision, "ongoing patients"  
19 means those patients for whom the pharmacy has on file a prescription with one or more refills  
20 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)  
21 days.

22           Respondent Anderson Bros. may not apply for any new licensure from the Board for  
23 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
24 applicable to the license sought as of the date the application for that license is submitted to the  
25 Board.

26           Respondent Anderson Bros. further stipulates that he or she shall reimburse the Board  
27 for its costs of investigation and prosecution prior to the acceptance of the surrender.

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1           **9. Notice to Employees.** Respondent Anderson Bros. shall, upon or before the effective  
2 date of this decision, ensure that all employees involved in permit operations are made aware of  
3 all the terms and conditions of probation, either by posting a notice of the terms and conditions,  
4 circulating such notice, or both. If the notice required by this provision is posted, it shall be  
5 posted in a prominent place and shall remain posted throughout the probation period. Respondent  
6 shall ensure that any employees hired or used after the effective date of this decision are made  
7 aware of the terms and conditions of probation by posting a notice, circulating a notice, or both.  
8 Additionally, Respondent shall submit written notification to the board, within fifteen (15) days  
9 of the effective date of this decision, that this term has been satisfied. Failure to submit such  
10 notification to the board shall be considered a violation of probation.

11           "Employees" as used in this provision includes all full-time, part-time, volunteer,  
12 temporary and relief employees and independent contractors employed or hired at any time  
13 during probation.

14           **10. Owners and Officers: Knowledge of the Law.** Respondent Anderson Bros. shall  
15 provide, within thirty (30) days after the effective date of this decision, signed and dated  
16 statements from its owners, including any owner or holder of ten percent (10%) or more of the  
17 interest in Respondent Anderson Bros. or its stock, and any officer, stating under penalty of  
18 perjury that said individuals have read and are familiar with state and federal laws and regulations  
19 governing the practice of pharmacy. The failure to timely provide said statements under penalty  
20 of perjury shall be considered a violation of probation.

21           **11. Posted Notice of Probation.** Respondent Anderson Bros. shall prominently post a  
22 probation notice provided by the Board in a place conspicuous and readable to the public. The  
23 probation notice shall remain posted during the entire period of probation.

24           Respondent Anderson Bros. shall not, directly or indirectly, engage in any conduct or  
25 make any statement which is intended to mislead or is likely to have the effect of misleading any  
26 patient, customer, member of the public, or other person(s) as to the nature of and reason for the  
27 probation of the licensed entity.

28           Failure to post such notice shall be considered a violation of probation.

1           **12. Violation of Probation.** If a Respondent Anderson Bros. has not complied with any  
2 term or condition of probation, the Board shall have continuing jurisdiction over Respondent's  
3 license, and probation shall be automatically extended until all terms and conditions have been  
4 satisfied or the board has taken other action as deemed appropriate to treat the failure to comply  
5 as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

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

15           **13. Completion of Probation.** Upon written notice by the Board or its designee  
16 indicating successful completion of probation, respondent license will be fully restored.

17           **14. Community Services Program.** Within sixty (60) days of the effective date of this  
18 decision, Respondent Anderson Bros. shall submit to the Board or its designee, for prior approval,  
19 a community service program in which Respondent shall provide free health-care related services  
20 to a community or charitable facility or agency valuing \$10,000.00 in services such as  
21 immunizations, sharps disposal containers, brown bags, etc.

22           Within thirty (30) days of board approval thereof, Respondent Anderson Bros. shall  
23 submit documentation to the Board demonstrating commencement of the community service  
24 program. Respondent shall report on progress with the community service program in the  
25 quarterly reports.

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1 Failure to timely submit, commence, or comply with the program shall be considered  
2 a violation of probation.

3 **ACCEPTANCE**

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
5 discussed it with my attorney, Tony J. Park, Esq., and Ivan Petrzelka, Esq. I understand the  
6 stipulation and the effect it will have on Anderson Bros. Town & Country Pharmacy and  
7 Pharmacy Permit Number PHY 49115. I enter into this Stipulated Settlement and Disciplinary  
8 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
9 of the Board of Pharmacy.

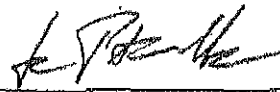
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11 DATED: 2/5/2016



12 ANDERSON BROS. TOWN & COUNTRY  
13 PHARMACY, INC.  
14 BY STEPHEN VINCENT ANDERSON, RPH  
15 PRESIDENT  
16 RESPONDENT

17 I have read and fully discussed with Respondent Anderson Bros. Town & Country  
18 Pharmacy, Inc., and Stephen Vincent Anderson, RPH, President, the terms and conditions and  
19 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its  
20 form and content.

21 DATED: February 5, 2016

  
22 TONY J. PARK, ESQ., OR  
23 IVAN PETRZELKA, ESQ.  
24 ATTORNEY FOR RESPONDENT  
25 ANDERSON BROS. TOWN & COUNTRY  
26 PHARMACY, INC.

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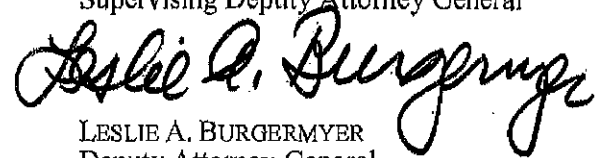
ENDORSEMENT

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

Dated: 2-5-2016

Respectfully submitted,

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



LESLIE A. BURGERMYER  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 5489**

1. KAMALA D. HARRIS  
Attorney General of California  
2. KENT D. HARRIS  
Supervising Deputy Attorney General  
3. LESLIE A. BURGERMYER  
Deputy Attorney General  
4. State Bar No. 117576  
1300 I Street, Suite 125  
5. P.O. Box 944255  
Sacramento, CA 94244-2550  
6. Telephone: (916) 324-5337  
Facsimile: (916) 327-8643  
7. Attorneys for Complainant

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

11. In the Matter of the Accusation Against:  
12. **ANDERSON BROS. TOWN & COUNTRY**  
13. **PHARMACY, INC.**  
14. Stephen Vincent Anderson, President  
John Harold Anderson, Secretary  
2900 Fulton Avenue  
Sacramento, California 95821  
15. Pharmacy Permit Number No. PHY 49115  
16. And  
17. **STEPHEN VINCENT ANDERSON,**  
18. Pharmacist-in-Charge  
2900 Fulton Avenue  
Sacramento, California 95821  
19. Pharmacist License Number No. RPH 42685  
20. Respondents.

Case No. 5489  
**ACCUSATION**

22. Complainant alleges:

23. **PARTIES**

24. 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity  
25. as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, ("Board").  
26. 2. On or about September 11, 2008, the Board issued Pharmacy Permit Number PHY  
27. 49115 to Anderson Bros. Town & Country Pharmacy, Inc. ("Respondent Pharmacy"). The  
28.

1 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein  
2 and will expire on September 1, 2016, unless renewed.

3 3. On or about August 8, 1989, the Board issued Pharmacist License Number RPH  
4 42685 to Stephen Vincent Anderson ("Respondent Anderson"). The Pharmacist License was in  
5 full force and effect at all times relevant to the charges brought herein and will expire on February  
6 28, 2017, unless renewed. At all times alleged herein, Respondent Anderson was the Pharmacist-  
7 in-Charge of Anderson Bros. Town & Country Pharmacy, Inc. within the meaning of Business  
8 and Professions Code section 4113.

9 4. As used herein, "Respondents" shall collectively refer to Respondent Pharmacy and  
10 Respondent Anderson.

11 **JURISDICTION**

12 5. This Accusation is brought before the Board under the authority of the following  
13 laws. All section references are to the Business and Professions Code ("Code") unless otherwise  
14 indicated.

15 6. Section 4300 of the Code states, in pertinent part:

16 (a) Every license issued may be suspended or revoked.

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

19 (1) Suspending judgment.

20 (2) Placing him or her upon probation.

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

23 (4) Revoking his or her license.

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

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1 7. Section 4300.1 of the Code states:

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

8 STATUTORY PROVISIONS

9 8. Code section 4301 states, in pertinent part:

10 (j) The violation of any of the statutes of this state, or any other state, or of the  
11 United States regulating controlled substances and dangerous drugs.

12 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
13 abetting the violation of or conspiring to violate any provision or term of this  
14 chapter or of the applicable federal and state laws and regulations governing  
15 pharmacy, including regulations established by the board or by any other state or  
16 federal regulatory agency.

17 9. Code section 4342 states, in pertinent part:

18 (a) The board may institute any action or actions as may be provided by law  
19 and that, in its discretion, are necessary, to prevent the sale of pharmaceutical  
20 preparations and drugs that do not conform to the standard and tests as to quality  
21 and strength, provided in the latest edition of the United States Pharmacopoeia or  
22 the National Formulary, or that violate any provision of the Sherman Food, Drug,  
23 and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of  
24 the Health and Safety Code).

25 10. Section 4022 of the Code states:

26 "Dangerous drug" or "dangerous device" means any drug or device unsafe for  
27 self-use in humans or animals, and includes the following:

28 (a) Any drug that bears the legend: "Caution: federal law prohibits  
dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this  
device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar  
import, the blank to be filled in with the designation of the practitioner licensed to  
use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully  
dispensed only on prescription or furnished pursuant to Section 4006.

11. Code section 4023.5 states:

For the purpose of this chapter, "direct supervision and control" means that a  
pharmacist is on the premises at all times and is fully aware of all activities performed  
by either a pharmacy technician or intern pharmacist.

1 12. Code section 4081 states, in pertinent part:

2 (a) All records of manufacture and of sale, acquisition, receipt, shipment, or  
3 disposition of dangerous drugs or dangerous devices shall be at all times during  
4 business hours open to inspection by authorized officers of the law, and shall be  
5 preserved for at least three years from the date of making. A current inventory shall  
6 be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy,  
7 veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian,  
8 laboratory, clinic, hospital, institution, or establishment holding a currently valid  
9 and unrevoked certificate, license, permit, registration, or exemption under Division  
10 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4  
11 (commencing with Section 16000) of Division 9 of the Welfare and Institutions  
12 Code who maintains a stock of dangerous drugs or dangerous devices.

13 13. Code section 4113 states, in pertinent part:

14 (c) The pharmacist-in-charge shall be responsible for a pharmacy's  
15 compliance with all state and federal laws and regulations pertaining to the practice  
16 of pharmacy.

17 14. Code section 4114 states, in pertinent part:

18 (a) An intern pharmacist may perform all functions of a pharmacist at the  
19 discretion of and under the direct supervision and control of a pharmacist whose  
20 license is in good standing with the board.

21 15. Health and Safety Code section 111255 states:

22 Any drug or device is adulterated if it has been produced, prepared, packed, or  
23 held under conditions whereby it may have been contaminated with filth, or  
24 whereby it may have been rendered injurious to health.

25 16. Health and Safety Code section 111295 states:

26 It is unlawful for any person to manufacture, sell, deliver, hold, or offer for  
27 sale any drug or device that is adulterated.

28 REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1714 states, in pertinent part:

(b) Each pharmacy licensed by the board shall maintain its facilities, space,  
fixtures, and equipment so that drugs are safely and properly prepared, maintained,  
secured and distributed. The pharmacy shall be of sufficient size and unobstructed  
area to accommodate the safe practice of pharmacy.

(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.



1 c. "Outdated drugs." The inspector observed this category to include drugs that were  
2 beyond the manufacturers' or Respondent Pharmacy's labeled expiration date and included  
3 returned prescriptions (vials and punch cards) and handwritten notations as being expired;

4 d. "Unlabeled drugs." The inspector observed this category to include bottles and  
5 vials containing outdated drugs.

6 22. The drugs mentioned in paragraph 20, and its subparts, above, were stored in a  
7 manner that Respondent Anderson conceded to the inspector that he, Anderson, could not totally  
8 distinguish whether the drugs were safe to use. Due to the intermingling of the drugs, it could not  
9 be determined if they had not been altered, adulterated, or lacked quality.

10 23. Respondents failed to maintain an inventory record of the drugs allegedly returned to  
11 the pharmacy from patients. The Board inspector instructed Respondents to prepare and submit  
12 an inventory of the drugs and to destroy them. Attached hereto, marked Addendum A, and  
13 incorporated herein is a true and correct copy of the inventory of drugs, referenced above, that  
14 was prepared by Respondents and submitted to the Board on or about February 11, 2015.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Supervise Pharmacist Interns)**

17 24. Respondent Pharmacy is subject to disciplinary action under Code sections 4300 and  
18 4301, subdivisions (j) and (o), in conjunction with Code section 4114, in that on or about  
19 February 4, 2015, it failed to provide direct supervision and control of Interns M.H and K.P, as  
20 alleged in paragraphs 19 and 20, above, incorporated herein by reference.

21 25. Respondent Anderson, Pharmacist-in-Charge of Respondent Pharmacy, is subject to  
22 disciplinary action under Code sections 4300 and 4301, subdivisions (j) and (o), in conjunction  
23 with Code section 4113, in that on or about February 4, 2015, he failed to provide direct  
24 supervision and control of Interns M.H and K.P, as alleged in paragraphs 19 and 20, above,  
25 incorporated herein by reference.

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1 by patients, as set forth in paragraphs 19, 21, and all of its subparts, 22, and 23, above, and  
2 Addendum A, hereto, all of which are incorporated herein by reference.

3 PRAYER

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

6 1. Revoking or suspending Pharmacy Permit Number PHY 49115 issued to Anderson  
7 Bros. Town & Country Pharmacy, Inc.;

8 2. Revoking or suspending Pharmacist License Number RPH 42685 issued to Stephen  
9 Vincent Anderson, Pharmacist-In-Charge for Anderson Bros. Town & Country Pharmacy Inc.;

10 3. Ordering Anderson Bros. Town & Country Pharmacy, Inc. and Stephen Vincent  
11 Anderson to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement  
12 of this case, pursuant to Business and Professions Code section 125.3;

13 4. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: 9/12/15

*Virginia Herold*

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

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