

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

In the Matter of the Accusation Against:

**POINT PHARMACY, INC.,
VERN VERLING AND CHERYL L.
LAWSON, OWNERS**

139 W. Richmond Ave., Suite B
Point Richmond, CA 94801,

Pharmacy Permit No. PHY 50655

VERN RAYMOND VERLING

1704 Northshore Drive
Richmond, CA 94804

Pharmacist License No. RPH 35360

Respondents.

Case No. 5858

OAH No. 2018010998

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 August 2, 2018.

It is so ORDERED on July 3, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Victor Law, R.Ph.
Board President

1 XAVIER BECERRA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
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8 **BEFORE THE**
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

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13 **VERN VERLING AND CHERYL L.**
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Point Richmond, CA 94801,

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**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Pharmacy Permit No. PHY 50655**

16 **VERN RAYMOND VERLING, PIC**
17 1704 Northshore Drive
Richmond, CA 94804,

18 **Pharmacist License No. RPH 35360**

19 Respondents.
20

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

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
25 (Board). She brought this action solely in her official capacity and is represented in this matter by
26 Xavier Becerra, Attorney General of the State of California, by Michael B. Franklin, Deputy
27 Attorney General.

28 ///

2. Respondents are represented in this proceeding by attorney Anne F. Marchant, whose address is: Klein, Hockel, Iezza & Patel P.C., 455 Market Street, Suite 1480, San Francisco, CA 94105.

3. On or about May 17, 2011, the Board of Pharmacy issued Pharmacy Permit Number PHY 50655 to Point Pharmacy Inc. to do business as Point Pharmacy (Respondent Point Pharmacy). At all relevant times, Respondent Vern Raymond Verling (Respondent Verling) was listed as the Pharmacist-in-Charge. The Pharmacy Permit was canceled due to change in ownership on May 1, 2016.

4. On or about June 25, 1980, the Board of Pharmacy issued Pharmacist License Number RPH 35360 to Respondent Verling. The Pharmacist License has been in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2020, unless renewed. Respondent Verling was the Pharmacist-in-Charge (PIC) of Respondent Point Pharmacy, as well as the President, 50% shareholder and Vice President, from May 17, 2011 to April 28, 2016.

JURISDICTION

5. Accusation No. 5858 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 2, 2017. Respondent timely filed its Notice of Defense contesting the Accusation.

6. A copy of Accusation No. 5858 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. 5858. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against them; the right to present evidence and to testify on their own behalf; the
2 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
6 every right set forth above.

7 CULPABILITY

8 10. Respondents understand and agree that the charges and allegations in Accusation No.
9 5858, if proven at a hearing, constitute cause for imposing discipline upon Pharmacy Permit
10 Number PHY 50655, issued to Respondent Point Pharmacy, and upon Pharmacist License
11 Number RPH 35360, issued to Respondent Verling.

12 11. For the purpose of resolving the Accusation without the expense and uncertainty of
13 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual
14 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest
15 those charges.

16 12. Respondents agree that Pharmacy Permit Number PHY 50655, issued to Respondent
17 Point Pharmacy, and Pharmacist License Number RPH 35360, issued to Respondent Verling, are
18 subject to discipline and they agree to be bound by the Board's terms as set forth in the
19 Disciplinary Order below.

20 RESERVATION

21 13. The admissions made by Respondents herein are only for the purposes of this
22 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
23 licensing agency is involved, and shall not be admissible in any other criminal or civil
24 proceeding.

25 CONTINGENCY

26 14. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
27 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
28 communicate directly with the Board regarding this stipulation and settlement, without notice to

1 or participation by Respondents or their counsel. By signing the stipulation, Respondents
2 understand and agree that they may not withdraw their agreement or seek to rescind the
3 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
4 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
5 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
6 the parties, and the Board shall not be disqualified from further action by having considered this
7 matter.

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

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

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

20 **DISCIPLINARY ORDER**

21 **AS TO RESPONDENT POINT PHARMACY INC.**

22 IT IS HEREBY ORDERED that Pharmacy Permit Number PHY 50655 issued to Point
23 Pharmacy Inc. to do business as Point Pharmacy is surrendered and accepted by the Board of
24 Pharmacy.

25 1. The surrender of the license and the acceptance of the surrendered license by the
26 Board constitutes the imposition of discipline against Respondent Point Pharmacy. This
27 stipulation constitutes a record of the discipline and becomes a part of Respondent Point
28 Pharmacy's license history with the Board.

2. Respondent Point Pharmacy shall lose all rights and privileges to practice under its license in California as of the effective date of the Board's Decision and Order.

3. Respondent Point Pharmacy shall cause to be delivered to the Board its pocket license and, if any were issued, wall certificate, on or before the effective date of the Decision and Order.

4. Respondent Point Pharmacy may not apply, reapply, or petition for any license from the Board for three (3) years from the effective date of the Decision and Order.

5. If Respondent Point Pharmacy ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent Point Pharmacy must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 5858 shall be deemed to be true, correct and admitted by Respondent Point Pharmacy when the Board determines whether to grant or deny the application or petition.

6. Prior to issuance of a new or reinstated license to Respondent Point Pharmacy, it shall pay to the Board costs of investigation and enforcement of \$15,000.00. Respondent Point Pharmacy is jointly and severally liable for this amount with Respondent Vern Raymond Verling.

7. Should Respondent Point Pharmacy ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Amended Accusation No. 5858 shall be deemed to be true, correct, and admitted by Respondent Point Pharmacy for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure to Respondent Point Pharmacy.

AS TO RESPONDENT VERN RAYMOND VERLING

IT IS HEREBY ORDERED that Pharmacist License Number RPH 35360 issued to Respondent Vern Raymond Verling (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. Suspension

As part of probation, respondent is suspended from the practice of pharmacy beginning on June 1, 2018, until such time as he completes at least six (6) hours of remedial education on the

1 topics of either prescription drug abuse and/or corresponding responsibility, and provides
2 satisfactory proof. The remedial education program must be approved by the Board or its
3 designee. If Respondent completes the continuing education course offered jointly by the Board
4 and the U.S. Drug Enforcement Administration, entitled "CURES, Prescription Drug Abuse and
5 Preventing Drug Diversion – What a Pharmacist Needs to Know," on May 12, 2018, in Los
6 Angeles, California, then no period of suspension shall be automatically imposed on the effective
7 date of this decision.

8 During suspension, respondent shall not enter any pharmacy area or any portion of the
9 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
10 retailer, or any other distributor of drugs that is licensed by the board, or any manufacturer, or any
11 area where dangerous drugs and/or dangerous devices or controlled substances are maintained.

12 Respondent shall not practice pharmacy nor do any act involving drug selection, selection
13 of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent
14 manage, administer, or be a consultant to any licensee of the board, or have access to or control
15 the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous
16 devices or controlled substances.

17 Respondent shall not engage in any activity that requires the professional judgment of
18 and/or licensure as a pharmacist. Respondent shall not direct or control any aspect of the practice
19 of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs
20 and/or dangerous devices or controlled substances.

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

22 2. Obey All Laws

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

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

- 26 • an arrest or issuance of a criminal complaint for violation of any provision of the
27 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
28 substances laws

- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent'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 timely 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 Entity

1 probation, including but not limited to: timely responses to requests for information by board
2 staff; timely compliance with directives from board staff regarding requirements of any term or
3 condition of probation; and timely completion of documentation pertaining to a term or condition
4 of probation. Failure to timely cooperate shall be considered a violation of probation.

5 **6. Continuing Education**

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

8 **7. Reporting of Employment and Notice to Employers**

9 During the period of probation, respondent shall notify all present and prospective
10 employers of the decision in case number 5858 and the terms, conditions and restrictions imposed
11 on respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
13 undertaking any new employment, respondent shall report to the board in writing the name,
14 physical address, and mailing address of each of his employer(s), and the name(s) and telephone
15 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in-charge, designated
16 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
17 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
18 employment. Respondent shall sign and return to the board a written consent authorizing the
19 board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and
20 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
21 concerning respondent's work status, performance, and monitoring. Failure to comply with the
22 requirements or deadlines of this condition shall be considered a violation of probation.

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 (a) his direct supervisor, (b)
25 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
26 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
27 board in writing acknowledging that the listed individual(s) has/have read the decision in case
28 number 5858, and terms and conditions imposed thereby. If one person serves in more than one

1 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
2 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
3 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
4 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
5 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
6 in case number 5858, and the terms and conditions imposed thereby.

7 If respondent works for or is employed by or through an employment service, respondent
8 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
9 of the decision in case number 5858, and the terms and conditions imposed thereby in advance of
10 respondent commencing work at such licensed entity. A record of this notification must be
11 provided to the board upon request.

12 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
13 (15) days of respondent undertaking any new employment by or through an employment service,
14 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
15 to report to the board in writing acknowledging that he or she has read the decision in case
16 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to
17 ensure that these acknowledgment(s) are timely submitted to the board.

18 Failure to timely notify present or prospective employer(s) or failure to cause the identified
19 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
20 shall be considered a violation of probation.

21 "Employment" within the meaning of this provision includes any full-time, part-time,
22 temporary, relief, or employment/management service position as a pharmacist, or any position
23 for which a pharmacist is a requirement or criterion for employment, whether the respondent is an
24 employee, independent contractor or volunteer.

25 **8. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

26 Respondent shall further notify the board in writing within ten (10) days of any change in
27 name, residence address, mailing address, e-mail address or phone number.
28

1 Failure to timely notify the board of any change in employer, name, address, or phone
2 number shall be considered a violation of probation.

3 **9. Restrictions on Supervision and Oversight of Licensed Facilities**

4 During the period of probation, respondent shall not supervise any intern pharmacist, be the
5 pharmacist-in-charge, designated representative-in-charge, responsible manager or other
6 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
7 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8 **10. Reimbursement of Board Costs**

9 As a condition precedent to successful completion of probation, respondent shall pay to the
10 board its costs of investigation and prosecution in the amount of \$15,000.00. Respondent shall
11 make payments in accordance with a payment plan approved by the board.

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

15 Respondent shall be permitted to pay these costs in a payment plan approved by the board
16 or its designee, so long as full payment is completed no later than one (1) year prior to the end
17 date of probation.

18 **11. Probation Monitoring Costs**

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

23 **12. Status of License**

24 Respondent shall, at all times while on probation, maintain an active, Pharmacist License
25 with the board, including any period during which suspension or probation is tolled. Failure to
26 maintain an active, current Pharmacist License shall be considered a violation of probation.

27 If respondent's Pharmacist License expires or is cancelled by operation of law or otherwise
28 at any time during the period of probation, including any extensions thereof due to tolling or

1 otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and
2 conditions of this probation not previously satisfied.

3 **13. License Surrender While on Probation/Suspension**

4 Following the effective date of this decision, should respondent cease practice due to
5 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
6 respondent may relinquish his license, including any indicia of licensure issued by the board,
7 along with a request to surrender the license. The board or its designee shall have the discretion
8 whether to accept the surrender or take any other action it deems appropriate and reasonable.
9 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
10 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
11 become a part of the respondent's license history with the board.

12 Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall
13 license, including any indicia of licensure not previously provided to the board within ten (10)
14 days of notification by the board that the surrender is accepted if not already provided.
15 Respondent may not reapply for any license from the board for three (3) years from the effective
16 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
17 of the date the application for that license is submitted to the board, including any outstanding
18 costs.

19 **14. Practice Requirement – Extension of Probation**

20 Except during periods of suspension, respondent shall, at all times while on probation, be
21 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
22 month during which this minimum is not met shall extend the period of probation by one month.
23 During any such period of insufficient employment, respondent must nonetheless comply with all
24 terms and conditions of probation, unless respondent receives a waiver in writing from the board
25 or its designee.

26 If respondent does not practice as a pharmacist in California for the minimum number of
27 hours in any calendar month, for any reason (including vacation), respondent shall notify the
28 board in writing within ten (10) days of the conclusion of that calendar month. This notification

1 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
2 interruption or reduction in practice; and the anticipated date(s) on which respondent will resume
3 practice at the required level. Respondent shall further notify the board in writing within ten (10)
4 days following the next calendar month during which respondent practices as a pharmacist in
5 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
6 considered a violation of probation.

7 It is a violation of probation for respondent's probation to be extended pursuant to the
8 provisions of this condition for a total period, counting consecutive and non-consecutive months,
9 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
10 probation period on its website.

11 **15. Violation of Probation**

12 If respondent has not complied with any term or condition of probation, the board shall
13 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
14 that probation shall automatically be extended, until all terms and conditions have been satisfied
15 or the board has taken other action as deemed appropriate to treat the failure to comply as a
16 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
17 board or its designee may post a notice of the extended probation period on its website.

18 If respondent violates probation in any respect, the board, after giving respondent notice
19 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
20 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
21 probation, or the preparation of an accusation or petition to revoke probation is requested from
22 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
23 probation shall be automatically extended until the petition to revoke probation or accusation is
24 heard and decided.

25 **16. 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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17. Remedial Education

Within ninety (90) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, an appropriate program of remedial education related to prescription drug abuse, corresponding responsibility, pharmacy security and controls. The program of remedial education shall consist of at least six (6) hours, which shall be completed in each subsequent year at his own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

Failure to timely submit for approval or complete the approved remedial education shall be considered a violation of probation. The period of probation will be automatically extended until such remedial education is successfully completed and written proof, in a form acceptable to the board, is provided to the board or its designee.

Following the completion of each course, the board or its designee may require the respondent, at his own expense, to take an approved examination to test the respondent's knowledge of the course. If the respondent does not achieve a passing score on the examination that course shall not count towards satisfaction of this term. Respondent shall take another course approved by the board in the same subject area.

18. Ethics Course

Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at his expense, approved in advance by the board or its designee that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall provide proof of enrollment upon request. Within five (5) days of completion, respondent shall submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll in an approved ethics course, to initiate the course during the first year of probation, to successfully complete it before the end of the second year of probation, or to timely submit proof of completion to the board or its designee, shall be considered a violation of probation.

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19. 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 practice supervisor is approved by the Board or its designee. At the outset of probation, the practice supervisor shall agree to and shall supervise respondent utilizing Daily Review while respondent is working at Zuckerberg San Francisco General Hospital – the supervisor shall review respondent's daily activities within 24 hours.

Thereafter, should a change in supervision be required, the Board or its designee shall have the discretion to choose from the following supervision levels:

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial – At least 25% of a work week

Within thirty (30) days of the effective date of this decision, respondent shall have his approved supervisor submit notification to the Board in writing stating that the supervisor has read the decision in case number 5858 and is familiar with the required level of supervision as determined by the Board or its designee. It shall be respondent's responsibility to ensure that his supervisor submits a timely acknowledgement. Failure to cause the supervisor to timely submit an acknowledgement to the Board shall be considered a violation of probation.

If respondent changes employment, it shall be respondent's responsibility to secure approval for a new practice supervisor, and to have his new supervisor, within fifteen (15) days after employment commences, submit notification to the Board in writing stating that the supervisor has read the decision in case number 5858 and is familiar with the level of supervision required. Respondent shall not practice pharmacy and his license shall be suspended until the Board or its designee approves a new supervisor. Failure to cause the supervisor to timely submit an acknowledgment to the Board shall be considered a violation of probation.

During any such 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

1 of drugs which is licensed by the Board, or any manufacturer, or any other place where dangerous
2 drugs or devices or controlled substances are stored. Respondent shall not practice pharmacy nor
3 do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing
4 or patient consultation; nor shall respondent manage, administer, or be a consultant to any
5 licensee of the board, or have access to or control the ordering, manufacturing or dispensing of
6 dangerous drugs or controlled substances. Respondent shall not engage in any activity that
7 requires the professional judgment of a pharmacist. Respondent shall not direct or control any
8 aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy
9 technician or a designated representative for any entity licensed by the board.

10 Failure to comply with any such suspension shall be considered a violation of probation.

11 **20. No Ownership or Management of Licensed Premises**

12 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
13 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
14 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
15 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
16 days following the effective date of this decision and shall immediately thereafter provide written
17 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
18 documentation thereof shall be considered a violation of probation.

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

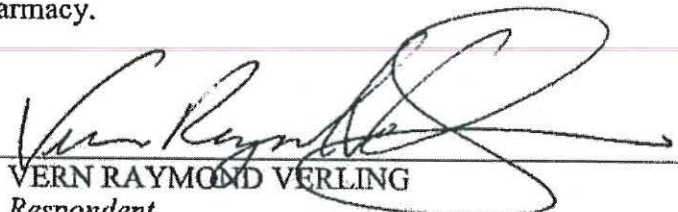
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1 ACCEPTANCE

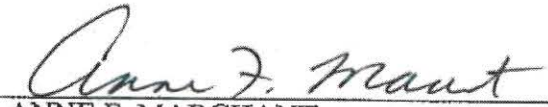
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Anne F. Marchant. I understand the stipulation and the effect it
4 will have on my Pharmacist License Number RPH 35360. I enter into this Stipulated Settlement
5 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Board of Pharmacy.

7
8 DATED: 04-27-2018


VERN RAYMOND VERLING
Respondent

10
11 I have read and fully discussed with Respondent Vern Raymond Verling the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

14
15 DATED: 4/27/2018


ANNE F. MARCHANT
Attorney for Respondent


17 ENDORSEMENT

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

20 Dated: 4/27/18

Respectfully submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 CHAR SACHSON
24 Supervising Deputy Attorney General


25 MICHAEL B. FRANKLIN
26 Deputy Attorney General
27 Attorneys for Complainant

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1 XAVIER BECERRA
Attorney General of California
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5858

12 **POINT PHARMACY, INC.,**
13 **VERN VERLING AND CHERYL L.**
LAWSON, OWNERS
14 **139 W. Richmond Ave., Suite B**
Point Richmond, CA 94801

ACCUSATION

15 **Pharmacy Permit No. PHY 50655**

16 **VERN RAYMOND VERLING, PIC**
17 **1704 Northshore Drive**
Richmond, CA 94804

18 **Pharmacist License No. RPH 35360**

19 Respondents.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

25 2. On or about May 17, 2011, the Board of Pharmacy issued Pharmacy Permit Number
26 PHY 50655 to Point Pharmacy Inc. to do business as Point Pharmacy (Respondent Point
27 Pharmacy). At all relevant times, Respondent Vern Raymond Verling (Respondent Verling) was
28

1 listed as the Pharmacist-in-Charge. The Pharmacy Permit was canceled due to change in
2 ownership on May 1, 2016.

3 3. On or about June 25, 1980, the Board of Pharmacy issued Pharmacist License
4 Number RPH 35360 to Respondent Verling. The Pharmacist License has been in full force and
5 effect at all times relevant to the charges brought herein and will expire on March 31, 2018,
6 unless renewed. Respondent Verling was the Pharmacist-in-Charge (PIC) of Respondent Point
7 Pharmacy, as well as the President, 50% shareholder and Vice President, from May 17, 2011 to
8 April 28, 2016.

9 JURISDICTION

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

13 5. Section 4011 of the Code provides that the Board shall administer and enforce both
14 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
15 Act [Health & Safety Code, § 11000 et seq.].

16 6. Section 4300(a) of the Code provides that every license issued by the Board may be
17 suspended or revoked.

18 7. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
19 suspension of a Board-issued license, the placement of a license on a retired status, or the
20 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
21 commence or proceed with any investigation of or action or disciplinary proceeding against the
22 licensee or to render a decision suspending or revoking the license.

23 STATUTORY AND REGULATORY PROVISIONS

24 8. Section 4036.5 of the Code provides:

25 "Pharmacist-in-charge" means a pharmacist proposed by a pharmacy and approved by the
26 board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all
27 state and federal laws and regulations pertaining to the practice of pharmacy."

28 9. Section 4081 of the Code states:

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

10 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal
11 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-
12 charge, for maintaining the records and inventory described in this section.

13 "(c) The pharmacist-in-charge or representative-in-charge shall not be criminally
14 responsible for acts of the owner, officer, partner, or employee that violate this section and of
15 which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or
16 she did not knowingly participate."

17 10. Section 4113(c) of the Code states:

18 "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
19 and federal laws and regulations pertaining to the practice of pharmacy."

20 11. Section 4156 of the Code provides:

21 "A pharmacy corporation shall not do, or fail to do, any act where doing or failing to do the
22 act would constitute unprofessional conduct under any statute or regulation. In the conduct of its
23 practice, a pharmacy corporation shall observe and be bound by the laws and regulations that
24 apply to a person licensed under this chapter."

25 12. Section 4301 of the Code states:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
28 not limited to, any of the following:

1 ". . . .

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

6 ". . . ."

7 13. Section 4302 of the Code provides:

8 "The board may deny, suspend, or revoke any license of a corporation where conditions
9 exist in relation to any person holding 10 percent or more of the corporate stock of the
10 corporation, or where conditions exist in relation to any officer or director of the corporation that
11 would constitute grounds for disciplinary action against a licensee."

12 14. Code section 4306.5 provides:

13 "Unprofessional conduct for a pharmacist may include any of the following:

14 ". . . .

15 "(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement
16 his or her best professional judgment or corresponding responsibility with regard to the
17 dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with
18 regard to the provision of services.

19 ". . . ."

20 15. Section 4307 of the Code provides:

21 "(a) Any person who has been denied a license or whose license has been revoked or is
22 under suspension, or who has failed to renew his or her license while it was under suspension, or
23 who has been a manager, administrator, owner, member, officer, director, associate, partner, or
24 any other person with management or control of any partnership, corporation, trust, firm, or
25 association whose application for a license has been denied or revoked, is under suspension or has
26 been placed on probation, and while acting as the manager, administrator, owner, member,
27 officer, director, associate, partner, or any other person with management or control had
28 knowledge of or knowingly participated in any conduct for which the license was denied,

1 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
2 administrator, owner, member, officer, director, associate, partner, or in any other position with
3 management or control of a licensee as follows:

4 "(1) Where a probationary license is issued or where an existing license is placed on
5 probation, this prohibition shall remain in effect for a period not to exceed five years.

6 "(2) Where the license is denied or revoked, the prohibition shall continue until the license
7 is issued or reinstated.

8 "(b) "Manager, administrator, owner, member, officer, director, associate, partner, or any
9 other person with management or control of a license" as used in this section and Section 4308,
10 may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

11 "(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.
13 However, no order may be issued in that case except as to a person who is named in the caption,
14 as to whom the pleading alleges the applicability of this section, and where the person has been
15 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part
16 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision
17 shall be in addition to the board's authority to proceed under Section 4339 or any other provision
18 of law."

19 16. Section 4332 of the Code provides:

20 "Any person who fails, neglects, or refuses to maintain the records required by section 4081
21 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or
22 refuses to produce or provide the records within a reasonable time . . . is guilty of a
23 misdemeanor."

24 17. California Code of Regulations, title 16, section 1715.6 states:

25 "The owner shall report to the Board within thirty (30) days of discovery of any loss of the
26 controlled substances, including their amounts and strengths. "

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1 18. California Code of Regulations, title 16, section 1718 states:

2 "'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
3 Code shall be considered to include complete accountability for all dangerous drugs handled by
4 every licensee enumerated in Sections 4081 and 4332. The controlled substances inventories
5 required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least
6 3 years after the date of the inventory."

7 19. California Code of Regulations, title 16, section 1761 states:

8 "(a) No pharmacist shall compound or dispense any prescription which contains any
9 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
10 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
11 validate the prescription.

12 "(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
13 a controlled substance prescription where the pharmacist knows or has objective reason to know
14 that said prescription was not issued for a legitimate medical purpose."

15 20. Health and Safety Code section 11153(a) provides:

16 "A prescription for a controlled substance shall only be issued for a legitimate medical
17 purpose by an individual practitioner acting in the usual course of his or her professional practice.
18 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
19 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
20 prescription. Except as authorized in this division, the following are not legal prescriptions: (1)
21 an order purporting to be a prescription which is issued not in the usual course of professional
22 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
23 controlled substances, which is issued not in the course of professional treatment or as part of an
24 authorized narcotic treatment program, for the purpose of providing the user with controlled
25 substances, sufficient to keep him or her comfortable by maintaining customary use."

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1 21. Code of Federal Regulations, title 21, section 1305.22(g) provides:

2 "When a purchaser receives a shipment, the purchaser must create a record of the quantity
3 of each item received and the date received. The record must be electronically linked to the
4 original order and archived. "

5 **COSTS**

6 22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation of the licensing
8 act to pay a sum not to exceed the reasonable costs of investigation and enforcement.

9 **DRUGS**

10 23. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for
11 compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III
12 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
13 drug as designated by Business and Professions Code section 4022. The varying compounds are
14 also known generically as Hydrocodone with APAP or HC/APAP. These are all narcotic
15 drugs. Products like these that combine hydrocodone with non-controlled substances are also
16 called hydrocodone combination products. Effective October 6, 2014, hydrocodone combination
17 productions were switched at the federal level from Schedule III (21 C.F.R. § 1308.13(e)(1)(iii)
18 and (iv)) to Schedule II (21 C.F.R. § 1308.12(b)(1)). This includes Hydrocodone with APAP
19 drugs.

20 24. Oxycodone, sometimes referred to by the brand name Oxycontin, is a Schedule II
21 controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and a
22 dangerous drug pursuant to Code section 4022.

23 25. Phenergan with Codeine syrup is a brand name for a compound consisting of the
24 antihistamine promethazine, a dangerous drug as designated by Business and Professions Code
25 section 4022, and codeine, a Schedule V controlled substance as designated by Health and Safety
26 Code section 11058(c)(1) and a dangerous drug as designated by Business and Professions Code
27 section 4022. This drug is also known generically as Promethazine with Codeine syrup. It is an
28 antihistamine/antitussive and narcotic analgesic.

26. Soma is a brand name for carisoprodol, a dangerous drug as designated by Business and Professions Code section 4022. Since January 11, 2012, carisoprodol has been a Schedule IV controlled substance at the federal level (21 C.F.R. § 1308.14(c)(6)). It is a muscle relaxant.

27. Methadone, a narcotic pain reliever, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(14), and a dangerous drug per Code section 4022.

FACTUAL BACKGROUND

28. On January 8, 2015, Board investigators conducted an inspection of Respondent Point Pharmacy. The investigation was prompted by the conviction of physician T.N. on felony charges of dispensing controlled substances. Respondent Point Pharmacy was one of the top two pharmacies at which Dr. T.N.'s patients filled their prescriptions.

29. During the inspection, an overall lack of security for controlled substances was observed. Respondent Verling had, but did not maintain a perpetual inventory for Schedule II controlled substances and failed to make entries for numerous drugs. Respondents used the CSOS (Controlled Substance Ordering System) for inventory management and tracking. However, Respondent Verling failed to fill in the number of bottles received from suppliers on the CSOS.

30. Respondents also filled a large number of prescriptions for Dr. H.N. 98% of the prescriptions filled for Dr. H.N. were for HC/APAP. During their inspection, Board inspectors found that many prescriptions written by Dr. H.N. for HC/APAP and promethazine with codeine were written on prescriptions in sequential order, indicating that the patients were seen one after the other.

31. Respondents filled a prescription for Oxycontin 80 mg, one tablet four times daily, even though Oxycontin is an extended release medication designed to be taken twice daily. The high dosage and frequency could have resulted in a fatal overdose. Additionally, Respondents filled prescriptions early on multiple occasions.

32. Respondent Point Pharmacy was robbed and its employees were tied up on November 21, 2014. An armed robbery was attempted but thwarted on December 12, 2014. During the

1 investigation, Respondent Verling reported to the Board investigators that Respondent Point
2 Pharmacy had been robbed three times in six months. He believed that his dispensing habits
3 made the pharmacy a target for theft. Respondents failed to alert the police or the Board to the
4 thefts.

5 33. During the inspection, Respondent Verling administered a vaccine to a patient in the
6 dispensing area. He finished what he had been working on previously, and left the patient alone
7 in the pharmacy for several minutes.

8 34. An audit of Respondent Point Pharmacy from April 1, 2012 to March 30, 2014,
9 revealed the following discrepancies: a shortage of 963 HC/APAP tablets, an overage of 19
10 oxycodone, and an overage of 1104 ml of promethazine/codeine cough syrup.

11 35. CURES¹ data was compiled for Respondent Point Pharmacy's filling of controlled
12 substances from January 1, 2012 to January 7, 2015, and demonstrated that during that time,
13 HC/APAP 10/325 was the most dispensed controlled substance, accounting for 33.20% (235,513
14 units out of 710,382); oxycodone 30 mg was the second most dispensed controlled substance,
15 accounting for 16.60% (118,232 units out of 710,382); carisoprodol 350 mg was the third most
16 dispensed controlled substance, accounting for 9.40 % (67,058 units out of 710,382); methadone
17 10 mg was the fourth most dispensed controlled substance, accounting for 6.30% (44,850 units
18 out of 710,382); and oxycodone 15 mg was the fifth most dispensed controlled substance,
19 accounting for 2.0% (14,265 out of 710,382).

20 36. Dr. T.N. was the top controlled substance prescriber at Respondent Point Pharmacy,
21 and Dr. H.N. was the number two top prescriber. Dr. T.N.'s office was 23 miles from
22 Respondent Point Pharmacy and Dr. H.N.'s office was 16 miles from Respondent Point
23 Pharmacy.²

24 37. 54.1% of all prescriptions at Respondent Point Pharmacy were paid for in cash.
25
26

27 ¹ CURES stands for Controlled Substance Utilization Review and Evaluation System.
CURES is a database that tracks prescriptions of controlled substances.

28 ² The top third, fourth and fifth prescribers were 14, 9, and 13 miles away, respectively.

1 38. The typical service area for a pharmacy is within a radius of five to ten miles. There
2 were between five and eight pharmacies within that radius of the offices of Dr. T.N. and Dr. H.N.
3 24 patient files were reviewed by Board investigators. Of those 24, 18 (75%) patients lived more
4 than 10 miles away from the pharmacy; 10 (42%) patients lived more than 20 miles away; 19
5 (79%) drove more than 40 miles round trip and five patients drove more than 30 miles round trip.

6 39. With regard to the 24 patient profiles and histories that were reviewed, many
7 commonalities, or "red flags," existed:

- 8 a. Each patient visited between 4 and 17 pharmacies, and 22 of the 24 patients used
- 9 5 or more pharmacies, indicating pharmacy shopping;
- 10 b. 17 of the 24 patients paid for their prescriptions with cash;³
- 11 c. 14 of the 24 patients filled prescriptions only for controlled substances; and 8
- 12 patients filled prescriptions for mostly controlled substances;
- 13 d. 11 of the 24 patients were prescribed promethazine with codeine on a monthly
- 14 basis, which is suspicious because this medication should be used for short term
- 15 relief of symptoms associated with the common cold or allergies;
- 16 e. Most saw more than one physician; in one case, a patient saw 31 physicians,
- 17 indicating doctor shopping;
- 18 f. Most were prescribed controlled substances by Dr. T.N. and Dr. H.N; and
- 19 g. On August 6, 2013, nine patients saw Dr. H.N. and went to Respondent Point
- 20 Pharmacy to fill the prescriptions, even though there were several other
- 21 pharmacies located within the 16 miles between Dr. H.N.'s office and Respondent
- 22 Point Pharmacy; on August 7, 2013, nine patients again saw Dr. H.N. and had
- 23 their prescriptions filled at Respondent Point Pharmacy; on August 8, 2013, 11 of
- 24 Dr. H.N.'s patients had 14 prescriptions filled at Respondent Point Pharmacy; and
- 25 on August 9, 2013, 10 of Dr. H.N.'s patients had 12 prescriptions filled at
- 26

27 ³ Some patients paid for prescriptions through Medi-Cal as well as with cash, which is
28 unusual because Medi-Cal patients would not typically have enough cash to pay for prescriptions.

1 Respondent Point Pharmacy; on August 12, 2013, 10 of Dr. H.N.'s patients had
2 11 prescriptions filled at Respondent Point Pharmacy;⁴

3 40. Dr. H.N. always prescribed HC/APAP with the instructions "take 1 tablet every 6
4 hours for back/joint pain" and he always prescribed promethazine with codeine with the
5 instructions "take 1 teaspoonful every 6 hours for cough and congestion." Dr. H.N. was an
6 internal medicine physician. Internal medicine is a broad specialty and it would be unusual for so
7 many patients to be prescribed the same pain medication and cough suppressant.

8 41. Dr. T.N. always prescribed oxycodone with the instructions "take 1 tablet every 8
9 hours for severe pain" and prescribed HC/APAP with the instructions "take 1 tablet every 8 hours
10 for lesser pain." Dr. T.N. was a podiatrist and it would be unusual for so many patients to be
11 prescribed the same pain medication and the same instructions.

12 42. Many of the prescriptions filled by Respondent Point Pharmacy were filled early,
13 indicating that the patients were not taking the medications as prescribed.

14 43. Board investigators compiled the number of prescriptions received during the audit
15 period at local pharmacies from doctors T.N. and H.N. Five pharmacies were located within a
16 five mile range of Respondent Point Pharmacy: Vale Road, Central, CVS, Target and Walgreens.
17 During the audit period, the following numbers of prescriptions were written by Dr. T.N. and
18 filled:

19	Respondent Point Pharmacy:	1592
20	Vale Road:	6
21	Central:	0
22	CVS:	1
23	Target:	3
24	Walgreens:	0

25 During the audit period, the following numbers of prescriptions were written by Dr. H.N. and
26 filled:

27 ⁴ In typical retail practice, it is unlikely to see multiple prescriptions for controlled
28 substances from one prescriber in the same day.

1 Respondent Point Pharmacy: 1361

2 Vale Road: 0

3 Central: 0

4 CVS: 3

5 Target: 1

6 Walgreens: 1

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8 **CAUSES FOR DISCIPLINE AGAINST RESPONDENT POINT PHARMACY**

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(FAILURE TO ELECTRONICALLY RECORD QUANTITY OF SHIPMENT**
11 **RECEIVED)**

12 44. Respondent Point Pharmacy is subject to disciplinary action under Code section
13 4301(o) and Code of Federal Regulations, title 21, section 1305.22(g), in that it directly or
14 indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or
15 regulations regulating the practice of pharmacy. As described above in FACTUAL
16 BACKGROUND, Respondent Point Pharmacy failed to record the quantity of items received on
17 the CSOS.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(FAILURE TO MAINTAIN CURRENT INVENTORY)**

20 45. Respondent Point Pharmacy is subject to disciplinary action under Code section
21 4301(o) and California Code of Regulations, title 16, section 1718, in that it directly or indirectly
22 violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations
23 regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND,
24 Respondent Point Pharmacy failed to account for all dangerous drugs and keep an accurate
25 inventory.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(ERRONEOUS AND/OR UNCERTAIN PRESCRIPTIONS)**

3 46. Respondent Point Pharmacy is subject to disciplinary action under Code section
4 4301(o) and California Code of Regulations, title 16, section 1761(a) and (b), in that it directly or
5 indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or
6 regulations regulating the practice of pharmacy. As described above in FACTUAL
7 BACKGROUND, Respondent Point Pharmacy dispensed prescriptions which contained
8 significant errors, omissions, irregularities, uncertainties, or ambiguities in that it filled
9 prescriptions which should have given it reason to know the prescriptions were not issued for
10 legitimate purposes, such as multiple patients receiving the same drugs or combinations of drugs,
11 duplication of therapies for individual patients, high amounts of cash paying patients, early refills,
12 irregularities in the prescribers' qualifications, and long distances travelled by patients to see the
13 prescriber or the pharmacy.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(CORRESPONDING RESPONSIBILITY)**

16 47. Respondent Point Pharmacy is subject to disciplinary action under Code section
17 4301(o) and in conjunction with Health and Safety Code section 11153(a) and/or California Code
18 of Regulations, title 16, section 1761, in that it directly or indirectly violated, or attempted to
19 violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of
20 pharmacy.

21 48. As discussed above in FACTUAL BACKGROUND, Respondent Point Pharmacy
22 failed to appropriately exercise the corresponding responsibility to ensure that it only filled
23 prescriptions issued for legitimate medical purposes. Respondent Point Pharmacy failed to
24 contact the prescribers to obtain information to verify the customers' prescriptions. Moreover, in
25 multiple instances, Respondent Point Pharmacy filled prescriptions despite having objective
26 reason to know that said prescriptions were not issued for legitimate medical purposes.

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**FIFTH CAUSE FOR DISCIPLINE
(FAILURE TO REPORT DRUG LOSS)**

49. Respondent Point Pharmacy is subject to disciplinary action under Code section 4301(o) and in conjunction with California Code of Regulations, title 16, section 1715.6, in that it directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of pharmacy when it failed to report losses of controlled substances to the Board within 30 days, as described above in FACTUAL BACKGROUND.

CAUSES FOR DISCIPLINE AGAINST RESPONDENT VERLING

**SIXTH CAUSE FOR DISCIPLINE
(FAILURE TO ELECTRONICALLY RECORD QUANTITY OF SHIPMENT
RECEIVED)**

50. Respondent Verling is subject to disciplinary action under Code section 4301(o) and Code of Federal Regulations, title 21, section 1305.22(g), in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND, Respondent Verling failed to record the quantity of items received on the CSOS.

**SEVENTH CAUSE FOR DISCIPLINE
(FAILURE TO MAINTAIN CURRENT INVENTORY)**

51. Respondent Verling is subject to disciplinary action under Code section 4301(o) and California Code of Regulations, title 16, section 1718, in conjunction with Code section 4081(a), in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND, Respondent Verling failed to account for all dangerous drugs and keep an accurate inventory.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(ERRONEOUS AND/OR UNCERTAIN PRESCRIPTIONS)**

3 52. Respondent Verling is subject to disciplinary action under Code section 4301(o) and
4 California Code of Regulations, title 16, section 1761(a) and (b), in that he directly or indirectly
5 violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations
6 regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND,
7 Respondent Verling dispensed prescriptions which contained significant errors, omissions,
8 irregularities, uncertainties, or ambiguities in that he filled prescriptions which should have given
9 him reason to know the prescriptions were not issued for legitimate purposes, such as multiple
10 patients receiving the same drugs or combinations of drugs, duplication of therapies for individual
11 patients, high amounts of cash paying patients, early refills, irregularities in the prescribers'
12 qualifications and long distances travelled by patients to see the prescriber or the pharmacy.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(CORRESPONDING RESPONSIBILITY)**

15 53. Respondent Verling is subject to disciplinary action under Code section 4301(o) and
16 in conjunction with Health and Safety Code section 11153(a) and/or California Code of
17 Regulations, title 16, section 1761, in that he directly or indirectly violated, or attempted to
18 violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of
19 pharmacy.

20 54. As discussed above in FACTUAL BACKGROUND, Respondent Verling failed to
21 appropriately exercise the corresponding responsibility to ensure that he only filled prescriptions
22 issued for legitimate medical purposes. Respondent Verling failed to contact the prescribers to
23 obtain information to verify the customers' prescriptions. Moreover, in multiple instances,
24 Respondent Verling filled prescriptions despite having objective reason to know that said
25 prescriptions were not issued for legitimate medical purposes.

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TENTH CAUSE FOR DISCIPLINE
(FAILURE TO REPORT DRUG LOSS)

55. Respondent Verling is subject to disciplinary action under Code section 4301(o) and in conjunction with California Code of Regulations, title 16, section 1715.6, in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of pharmacy when he failed to report losses of controlled substances to the Board within 30 days, as described above in FACTUAL BACKGROUND.

OTHER MATTERS

56. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50655 issued to Point Pharmacy, Inc., Point Pharmacy, Inc. shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is reinstated if it is revoked.

57. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50655 issued to Point Pharmacy, Inc. while Vern Raymond Verling and/or Cheryl L. Lawson have been an officer and owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Vern Raymond Verling and Cheryl L. Lawson shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50655 is placed on probation, or until Pharmacy Permit Number PHY 50655 is reinstated if it is revoked.

PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 50655, issued to Point Pharmacy, Inc.;
2. Revoking or suspending Pharmacist License No. RPH 35360, issued to Vern Raymond Verling;

1 3. Prohibiting Point Pharmacy, Inc. from serving as a manager, administrator, owner,
2 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
3 Number 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is reinstated
4 if Pharmacy Permit Number PHY 50655 issued to Point Pharmacy, Inc. is revoked;

5 4. Prohibiting Vern Raymond Verling from serving as a manager, administrator, owner,
6 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
7 Number PHY 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is
8 reinstated if Pharmacy Permit Number 50655 issued to Point Pharmacy, Inc. is revoked;

9 5. Prohibiting Cheryl L. Lawson from serving as a manager, administrator, owner,
10 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
11 Number PHY 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is
12 reinstated if Pharmacy Permit Number 50655 issued to Point Pharmacy, Inc. is revoked;

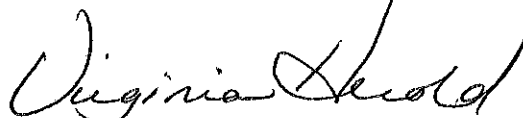
13 6. Ordering Vern Raymond Verling to pay the Board of Pharmacy the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3;

16 7. Ordering Point Pharmacy, Inc. to pay the Board of Pharmacy the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3; and,

19 8. Taking such other and further action as deemed necessary and proper.

20
21 DATED: _____

4/24/17



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

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