

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

In the Matter of the Accusation Against:

**QUARTZ HILL PHARMACY, RICHARD
ARTHUR WOOD
42357 50th Street W. #101
Quartz Hill, CA 93536**

Permit No. PHY 39118

and

**RICHARD ARTHUR WOOD
5918 E. Aleppo Lane
Palmdale, CA 93551**

Pharmacist License No. RPH 28308

Respondents.

Case No. 5892

OAH No. 2017010056

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on March 28, 2018.

It is so ORDERED on February 26, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 EMILY Y. WADA
Deputy Attorney General
4 State Bar No. 241845
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6271
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5892

11 **QUARTZ HILL PHARMACY, RICHARD**
12 **ARTHUR WOOD**
13 42357 50th Street W. #101
Quartz Hills, CA 93536

OAH No. 2017010056

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Permit No. PHY 39118,

15 and

16 **RICHARD ARTHUR WOOD**
17 5918 E. Aleppo Lane
Palmdale, CA 93551

18 Pharmacist License No. RPH 28308

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
26 by Xavier Becerra, Attorney General of the State of California, by Emily Y. Wada, Deputy
27 Attorney General.
28

2. Respondents Quartz Hill Pharmacy, Richard Arthur Wood, and Richard Arthur Wood (collectively, "Respondents") are represented in this proceeding by attorney Elizabeth M. Brady, whose address is: 8880 Rio San Diego, Suite 800, San Diego, CA 92108-1642.

3. On or about March 8, 1993, the Board issued Permit No. PHY 39118 to Quartz Hill Pharmacy, Richard Arthur Wood ("Respondent Quartz Hill Pharmacy"). The Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 5892, and expired on November 20, 2017.

1. On or about July 31, 1973, the Board of Pharmacy issued Pharmacist License Number RPH 28308 to Richard Arthur Wood ("Respondent Wood"). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 5892 was filed before the Board, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on October 26, 2016. Respondents timely filed a Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 5892 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondents have carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 5892. Respondents have also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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 the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

3 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
4 every right set forth above.

5 CULPABILITY

6 9. Respondents admit the truth of each and every charge and allegation in Accusation
7 No. 5892.

8 10. Respondent Quartz Hill Pharmacy agrees that its Permit is subject to discipline and
9 agrees to be bound by the Board's Disciplinary Order below.

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

12 RESERVATION

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

17 CONTINGENCY

18 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
19 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
20 communicate directly with the Board regarding this stipulation and settlement, without notice to
21 or participation by Respondents or their counsel. By signing the stipulation, Respondents
22 understand and agree that they may not withdraw their agreement or seek to rescind the
23 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
24 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
25 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
26 the parties, and the Board shall not be disqualified from further action by having considered this
27 matter.
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14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Permit No. PHY 39118 issued to Respondent Quartz Hill Pharmacy, Richard Arthur Wood is revoked.

IT IS ALSO HEREBY ORDERED that Pharmacist License Number RPH 28308 issued to Respondent Richard Arthur Wood is revoked. However, the revocation is stayed and Respondent Wood is placed on probation for seven (7) years on the following terms and conditions.

1. Suspension

As part of probation, Respondent is suspended from the practice of pharmacy beginning on May 1, 2018, until such time in which he completes at least six (6) hours of remedial education on the topics of either prescription drug abuse and/or corresponding liability, and provides satisfactory proof. The remedial education program must be approved by the Board or its designee. If Respondent completes the continuing education course offered jointly by the Board and the U.S. Drug Enforcement Administration, entitled "CURES, Prescription Drug Abuse and Preventing Drug Diversion – What a Pharmacist Needs to Know," on January 27, 2018, in San Francisco, California, then no period of suspension shall be automatically imposed on the effective date of this decision.

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

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

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

14 2. Obey All Laws

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

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

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

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

1 3. **Report to the Board**

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

10 4. **Interview with the Board**

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

16 5. **Cooperate with Board Staff**

17 Respondent shall cooperate with the board's inspection program and with the board's
18 monitoring and investigation of Respondent's compliance with the terms and conditions of his
19 probation. Failure to cooperate shall be considered a violation of probation.

20 6. **Continuing Education**

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

23 7. **Notice to Employers**

24 During the period of probation, Respondent shall notify all present and prospective
25 employers of the decision in case number 5892 and the terms, conditions and restrictions imposed
26 on Respondent by the decision, as follows:

27 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
28 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
2 tenure of employment) and owner to report to the board in writing acknowledging that the listed
3 individual(s) has/have read the decision in case number 5892, and terms and conditions imposed
4 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
5 supervisor(s) submit timely acknowledgment(s) to the board.

6 If Respondent works for or is employed by or through a pharmacy employment service,
7 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
8 licensed by the board of the terms and conditions of the decision in case number 5892 in advance
9 of the Respondent commencing work at each licensed entity. A record of this notification must
10 be provided to the board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
12 (15) days of Respondent undertaking any new employment by or through a pharmacy
13 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
14 service to report to the board in writing acknowledging that he has read the decision in case
15 number 5892 and the terms and conditions imposed thereby. It shall be Respondent's
16 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
17 acknowledgment(s) to the board.

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

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

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

27 During the period of probation, Respondent shall not supervise any intern pharmacist, be
28 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the

1 board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
2 unauthorized supervision responsibilities shall be considered a violation of probation.

3 **9. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, Respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$15,255.00. Respondent shall
6 make said payment according to a plan approved by the Board or its designee. Failure to pay
7 costs by the plan as directed shall be considered a violation of probation.

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

10 **10. Probation Monitoring Costs**

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

15 **11. Status of License**

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

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

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

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

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

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

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

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

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

18 **14. Tolling of Probation**

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

25 Should Respondent, regardless of residency, for any reason (including vacation) cease
26 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
27 Respondent must notify the board in writing within ten (10) days of the cessation of practice, and
28

1 must further notify the board in writing within ten (10) days of the resumption of practice. Any
2 failure to provide such notification(s) shall be considered a violation of probation.

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

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

11 15. Violation of Probation

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

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

24 16. Completion of Probation

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

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1 **17. Remedial Education**

2 Within ninety (90) days of the effective date of this decision, Respondent shall submit to
3 the Board or its designee, for prior approval, an appropriate program of remedial education
4 related to prescription drug abuse and/or corresponding liability. The program of remedial
5 education shall consist of at least six (6) hours, which shall be completed every year of probation
6 at Respondent's own expense. All remedial education shall be in addition to, and shall not be
7 credited toward, continuing education (CE) courses used for license renewal purposes.

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

12 Following the completion of each course, the board or its designee may require the
13 Respondent, at his own expense, to take an approved examination to test the Respondent's
14 knowledge of the course. If the Respondent does not achieve a passing score on the examination,
15 this failure shall be considered a violation of probation. Any such examination failure shall
16 require Respondent to take another course approved by the board in the same subject area.

17 **18. Supervised Practice**

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

- 23 • Continuous – At least 75% of a work week
24 • Substantial - At least 50% of a work week
25 • Partial - At least 25% of a work week
26 • Daily Review - Supervisor's review of probationer's daily activities within 24 hours

27 Within thirty (30) days of the effective date of this decision, Respondent shall have his
28 supervisor submit notification to the Board in writing stating that the supervisor has read the

1 decision in case number 5892 and is familiar with the required level of supervision as determined
2 by the Board or its designee. It shall be the Respondent's responsibility to ensure that his
3 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
4 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
5 acknowledgements to the Board shall be considered a violation of probation.

6 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
7 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
8 acknowledgement(s) to the Board. Respondent shall have his new supervisor, within fifteen (15)
9 days after employment commences, submit notification to the board in writing stating the direct
10 supervisor and pharmacist-in-charge have read the decision in case number 5892 and is familiar
11 with the level of supervision as determined by the Board. Respondent shall not practice
12 pharmacy and his license shall be automatically suspended until the Board or its designee
13 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
14 submit timely acknowledgements to the Board shall be considered a violation of probation.

15 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

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

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

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

1 19. **No Ownership of Licensed Premises**

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

9 20. **Ethics Course**

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

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

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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, Elizabeth M. Brady. I understand the stipulation and the effect it
4 will have on my Permit and Pharmacist License. I enter into this Stipulated Settlement and
5 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:

Jan 4, 2018

Quartz Hill Pharmacy, Richard Arthur Wood
QUARTZ HILL PHARMACY, RICHARD ARTHUR
WOOD
Respondent Quartz Hill Pharmacy

11
12 DATED:

Jan 4, 2018

Richard Arthur Wood
RICHARD ARTHUR WOOD
Respondent Richard Arthur Wood

15
16 I have read and fully discussed with Respondents Quartz Hill Pharmacy, Richard Arthur
17 Wood, and Richard Arthur Wood the terms and conditions and other matters contained in the
18 above Stipulated Settlement and Disciplinary Order. I approve its form and content.

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21 DATED:

Jan. 4, 2018

Elizabeth M. Brady
ELIZABETH M. BRADY
Attorney for Respondent

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ENDORSEMENT

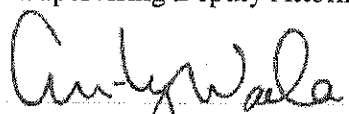
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated:

January 4, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General


EMILY Y. WADA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5892

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 EMILY Y. WADA
Deputy Attorney General
4 State Bar No. 241845
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-8944
6 Facsimile: (213) 897-2804
E-mail: Emily.Wada@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5892

13 **QUARTZ HILL PHARMACY, RICHARD**
14 **ARTHUR WOOD**
42357 50th Street W. #101
Quartz Hill, CA 93536
Permit No. PHY 39118

A C C U S A T I O N

15 **RICHARD ARTHUR WOOD**
16 **5918 E. Aleppo Lane**
17 **Palmdale, CA 93551**
Pharmacist License No. RPH 28308

18 Respondents.

19
20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about March 8, 1993, the Board of Pharmacy issued Permit Number PHY
25 39118 to Quartz Hill Pharmacy, Richard Arthur Wood. The Permit was in full force and effect at
26 all times relevant to the charges brought herein and will expire on March 1, 2017, unless renewed.

27 3. On or about July 31, 1973, the Board of Pharmacy issued Pharmacist License
28 Number RPH 28308 to Richard Arthur Wood. The Pharmacist License was in full force and

1 effect at all times relevant to the charges brought herein and will expire on May 31, 2017, unless
2 renewed.

3 JURISDICTION

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

7 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8 surrender, or cancellation of a license shall not deprive the Board, Registrar, or Director of
9 jurisdiction to proceed with a disciplinary action during the period within which the license may
10 be renewed, restored, reissued or reinstated.

11 STATUTORY PROVISIONS

12 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
13 surrender, or cancellation of a license shall not deprive the Board, Registrar, or Director of
14 jurisdiction to proceed with a disciplinary action during the period within which the license may
15 be renewed, restored, reissued or reinstated.

16 7. Section 4081 provides, in pertinent part, that:

17 (a) All records of manufacture and of sale, acquisition, receipt,
18 shipment, or disposition of dangerous drugs or dangerous devices
19 shall be at all times during business hours open to inspection by
20 authorized officers of the law, and shall be preserved for at least
21 three years from the date of making. . . .

22 (b) The owner, officer, and partner of a pharmacy, wholesaler,
23 third-party logistics provider, or veterinary food-animal drug
24 retailer shall be jointly responsible, with the pharmacist-in-charge,
25 responsible manager, or designated representative-in-charge, for
26 maintaining the records and inventory described in this section. . . .

27 8. Section 4105 provides, in pertinent part that:

28 (a) All records or other documentation of the acquisition and
disposition of dangerous drugs and dangerous devices by any
entity licensed by the board shall be retained on the licensed
premises in a readily retrievable form.
...

1 (c) The records required by this section shall be retained on the
2 licensed premises for a period of three years from the date of
making.

3 (e)

4 (1) Notwithstanding subdivisions (a), (b), and (c), the
5 board may, upon written request, grant to a licensee a waiver of the
6 requirements that the records described in subdivisions (a), (b), and
7 (c) be kept on the licensed premises.

8 (2) A waiver granted pursuant to this subdivision shall not
9 affect the board's authority under this section or any other
10 provision of this chapter.

11 9. Section 4160 provides, in pertinent part, that: "(a) A person shall not act as a
12 wholesaler or third-party logistics provider of any dangerous drug or dangerous device unless he
13 or she has obtained a license from the board."

14 10. Health and Safety Code section 11165 provides, in pertinent part, that:

15 (d) For each prescription for a Schedule II, Schedule III, or
16 Schedule IV controlled substance, as defined in the controlled
17 substances schedules in federal law and regulations, specifically
18 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
19 of the Code of Federal Regulations, the dispensing pharmacy,
20 clinic, or other dispenser shall report the following information to
21 the Department of Justice as soon as reasonably possible, but not
22 more than seven days after the date a controlled substance is
23 dispensed, in a format specified by the Department of Justice:

24 (1) Full name, address, and, if available, telephone number
25 of the ultimate user or research subject, or contact information as
26 determined by the Secretary of the United States Department of
27 Health and Human Services, and the gender, and date of birth of
28 the ultimate user.

(2) The prescriber's category of licensure, license number,
national provider identifier (NPI) number, if applicable, the federal
controlled substance registration number, and the state medical
license number of any prescriber using the federal controlled
substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI
number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled
substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 9th
revision (ICD-9) or 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

- 1 (8) Whether the drug was dispensed as a refill of a
prescription or as a first-time request.
2 (9) Date of origin of the prescription.
3 (10) Date of dispensing of the prescription.

4 **REGULATORY PROVISIONS**

5 11. Code of Federal Regulations, title 21, section 1304.11, provides, in pertinent part,
6 that:

7 (a) General requirements. Each inventory shall contain a complete
8 and accurate record of all controlled substances on hand on the
9 date the inventory is taken, and shall be maintained in written,
10 typewritten, or printed form at the registered location. An
11 inventory taken by use of an oral recording device must be
12 promptly transcribed. Controlled substances shall be deemed to be
13 "on hand" if they are in the possession of or under the control of
14 the registrant, including substances returned by a customer,
15 ordered by a customer but not yet invoiced, stored in a warehouse
16 on behalf of the registrant, and substances in the possession of
17 employees of the registrant and intended for distribution as
18 complimentary samples. A separate inventory shall be made for
19 each registered location and each independent activity registered,
20 except as provided in paragraph (e)(4) of this section. In the event
21 controlled substances in the possession or under the control of the
22 registrant are stored at a location for which he/she is not registered,
23 the substances shall be included in the inventory of the registered
24 location to which they are subject to control or to which the person
25 possessing the substance is responsible. The inventory may be
26 taken either as of opening of business or as of the close of business
27 on the inventory date and it shall be indicated on the inventory.

19 12. California Code of Regulations, title 16, section 1714, provides, in pertinent part,
20 that:

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

26 ...
27 (d) Each pharmacist while on duty shall be responsible for the
28 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 13. California Code of Regulations, title 16, section 1715, provides, in pertinent part,
2 that:

3 (a) The pharmacist-in-charge of each pharmacy as defined under
4 section 4029 or section 4037 of the Business and Professions
5 Code shall complete a self-assessment of the pharmacy's
6 compliance with federal and state pharmacy law. The assessment
7 shall be performed before July 1 of every odd-numbered year. The
8 primary purpose of the self-assessment is to promote compliance
9 through self-examination and education.

10 ...
11 (d) Each self-assessment shall be kept on file in the pharmacy for
12 three years after it is performed.

13 14. California Code of Regulations, title 16, section 1718, provides, in pertinent part,
14 that:

15 "Current Inventory" as used in Sections 4081 and 4332 of the
16 Business and Professions Code shall be considered to include
17 complete accountability for all dangerous drugs handled by every
18 licensee enumerated in Sections 4081 and 4332.

19 The controlled substances inventories required by Title 21, CFR,
20 Section 1304 shall be available for inspection upon request for at
21 least 3 years after the date of the inventory.

22 COST RECOVERY

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

29 DRUG CLASSIFICATIONS

30 16. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
31 section 11055(b)(1)(M) and is categorized as a dangerous drug pursuant to Business and
32 Professions Code section 4022.

33 17. Hydrocodone and Acetaminophen is a Schedule II controlled substance pursuant to
34 Health and Safety Code section 11055(e)(4) and Code of Federal Regulations, title 21, section
35

1 1308.12(b)(1)(vi), and is categorized as a dangerous drug pursuant to Business and Professions
2 Code section 4022.

3 18. Carisoprodol is a Schedule IV controlled substance pursuant to Code of Federal
4 Regulations, title 21, section 1308.14(c)(6), and is categorized as a dangerous drug pursuant to
5 Business and Professions Code section 4022.

6 19. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code
7 section 11057(d)(1) and is categorized as a dangerous drug pursuant to Business and Professions
8 Code section 4022.

9 20. Methadone is a Schedule II controlled substance pursuant to Health and Safety Code
10 section 11055(c)(14) and is categorized as a dangerous drug pursuant to Business and Professions
11 Code section 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Failure to Retain Records of Acquisition and Disposition of Dangerous Drugs on the**
14 **Licensed Premises)**

15 21. Respondent is subject to disciplinary action under Code sections 4105, subdivisions
16 (a) and (c), and 4081, subdivisions (a) and (b), on the grounds that Respondent failed to retain
17 records of acquisition and disposition of dangerous drugs on the licensed premises.

18 22. The facts and circumstances are that, on or around July 30, 2015, the Board initiated
19 an inspection and audit of Quartz Hill Pharmacy. The inspection was prompted by an analysis
20 performed by the Board whereby the controlled substance dispensing data from Quartz Hill as
21 reported to the Controlled Substance Utilization Review and Evaluation System ("CURES") and
22 controlled substance purchasing data for Quartz Hill as reported by California licensed
23 wholesalers revealed a potential inventory discrepancy.

24 23. Specifically, Board inspectors asked to review all of Quartz Hill's records of
25 acquisition and disposition of dangerous drugs. Respondent admitted to the Board inspectors that
26 approximately ten boxes of the pharmacy's records were stored at unlicensed off-site facilities,
27 including, for example, Respondent's home. Respondent further admitted that Quartz Hill did not
28 have a waiver for the off-site storage of records.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Acting as a Reverse Distributor Without Obtaining a License From the Board)**

3 28. Respondent is subject to disciplinary action under Code section 4160, subdivision (a),
4 in conjunction with Code sections 4040.5 and 4043, on the grounds that Respondent acted as a
5 reverse distributor and, therefore, as a wholesaler by collecting expired medications from patients,
6 storing them, and disposing of them in the trash or via local waste management collections
7 without being licensed to do so.

8 29. Specifically, during the inspection on or around July 30, 2015, Board inspectors
9 observed bottles of medications from other pharmacies in a drawer beneath the pharmacy counter
10 at Quartz Hill. Some of the bottles had patient-specific labeling indicating the medications had
11 already been dispensed. Respondent admitted that Quartz Hill would "take back" expired or
12 unwanted medications filled by other pharmacies, and that Respondent would combine returned
13 drugs into large bottles and eventually dispose of the bottles at a local waste management facility.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Failure to report Controlled Substances Prescriptions to CURES)**

16 30. Respondent is subject to disciplinary action under Health and Safety Code section
17 11165, subdivision (d), on the grounds that Respondent failed to report required information to
18 CURES regarding prescriptions filled between November 2012 and November 2015 within seven
19 days of the dispensing dates as required by law.

20 31. Specifically, during the inspection on or around July 30, 2015, Board inspectors
21 asked Respondent how Quartz Hill submitted its filled controlled substance prescriptions to the
22 CURES database. Respondent explained that pharmacy staff generated a report that was
23 submitted through the pharmacy's software, but the software did not automatically submit the
24 report to the CURES database. Respondent then produced to the Board inspectors a copy of a
25 "Controlled Substance Tracking Report" dated July 29, 2015, which showed 2002 prescription
26 entries, most of which were filled in May, June, and July 2015. Respondent informed the Board
27 inspectors that the July 29 report was being submitted to the CURES database. Although certain
28 controlled substances must be reported within seven days after they are dispensed, Respondent

1 admitted that he fell behind in submitting prescriptions to the CURES database and that
2 prescriptions may not have been properly transmitted on previous attempts.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain Security of Drug Stock)**

5 32. Respondent is subject to disciplinary action under California Code of Regulations,
6 title 16, section 1714, subdivisions (b) and (d), on the grounds that Respondent failed to maintain
7 Quartz Hill so that drugs are safely and properly prepared, maintained, secured, and distributed
8 and Respondent failed to ensure the security of the prescription department and/or failed to enact
9 provisions for effective control against theft or diversion of dangerous drugs and devices, and
10 records for such drugs and devices.

11 33. Specifically, during the inspection on or around July 30, 2015, Board inspectors
12 conducted an audit of selected controlled substances from June 1, 2013, through July 30, 2015.
13 Inspectors compared Quartz Hill's DEA Bienniel Inventory (*i.e.*, the initial amounts) with
14 certified records of sales from wholesalers (*i.e.*, additional amounts purchased) and drug usage
15 details (*i.e.*, the amounts dispensed); then compared the resulting amounts to be accounted for
16 against a contemporaneous stock-on-hand inspection count performed by Respondent. Based on
17 the audit, the inspectors determined that Quartz Hill could not account for inventory shortages of
18 2,579 oxycodone 30mg tablets, 16,893 hydrocodone/acetaminophen 10/325mg tablets, 3,347
19 carisoprodol 350mg tablets, 1,518 alprazolam 2mg tablets, and 412 methadone 10mg tablets.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain A Current Inventory)**

22 34. Respondent is subject to disciplinary action under Code section 4081, subdivision (a),
23 in conjunction with Code of Federal Regulations, title 21, section 1304.11, subdivision(a), and
24 California Code of Regulations, title 16, section 1718, on the grounds that Respondent failed to
25 maintain a current inventory of Quartz Hill. Complainant refers to and hereby expressly
26 incorporates the allegations contained within paragraph 32, above, as if fully set forth herein.

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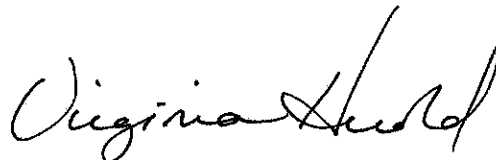
PRAYER

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

1. Revoking or suspending Permit Number PHY 39118, issued to Quartz Hill Pharmacy, Richard Arthur Wood
2. Revoking or suspending Pharmacist License Number RPH 28308, issued to Richard Arthur Wood;
3. Ordering Richard Arthur Wood to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: _____

10/10/16



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

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