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

In the Matter of the Accusation Against:

CVS PHARMACY LLC,
dba CVS/PHARMACY #9248
1700 McHenry Avenue
Modesto, CA 95350

Pharmacy Permit No. PHY 49725

and

STAVROS MICHAEL STATHOUDAKIS
1700 Joann Avenue
Modesto, CA 95350

Pharmacist License No. RPH 65725

Respondents.

Case No. 5926

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 September 20, 2018.

It is so ORDERED on August 21, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Victor Law, R.Ph.
Board President
BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CVS PHARMACY LLC,
dba CVS/PHARMACY #9248
1700 McHenry Avenue
Modesto, CA 95350

Pharmacy Permit No. PHY 49725

and

STAVROS MICHAEL STATHOUDAKIS
1700 Joann Avenue
Modesto, CA 95350

Pharmacist License No. RPH 65725

Respondents.

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.
2. Respondent CVS Pharmacy LLC dba CVS Pharmacy #9248 and Stavros Michael Stathoudakis (Respondents) are represented in this proceeding by attorney Jeff J. Astarabadi, whose address is: 2 Park Plaza, Suite 1075, Irvine, CA 92614

3. On or about November 10, 2008, the Board issued Pharmacy Permit No. PHY 49725 to CVS Pharmacy LLC dba CVS Pharmacy #9248 (Respondent). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 5926, and will expire on November 1, 2018, unless renewed.

4. On or about August 16, 2011, the Board issued Pharmacist License Number RPH 65725 to Respondent Stathoudakis. The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2018, unless renewed.

JURISDICTION

5. Accusation No. 5926 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 17, 2017. Respondents timely filed their Notices of Defense contesting the Accusation.

6. A copy of Accusation No. 5926 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. 5926. Respondents have also carefully read, fully discussed with counsel, and understands 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 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
documents; the right to reconsideration and court review of an adverse decision; and all other
rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

10. Respondents understands and agrees that the charges and allegations in Accusation
No. 5926, if proven at a hearing, constitute cause for imposing discipline upon their Pharmacy
Permit and Pharmacist license.

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

12. Respondents agree that their Pharmacy Permit and Pharmacist license is subject to
discipline and they agree to be bound by the Board's probationary terms as set forth in the
Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
communicate directly with the Board regarding this stipulation and settlement, without notice to
or participation by Respondents or their counsel. By signing the stipulation, Respondents
understand and agree that they may not withdraw their agreement or seek to rescind the
stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
the parties, and the Board shall not be disqualified from further action by having considered this
matter.
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 Pharmacy Permit No. PHY 49725 issued to Respondent CVS Pharmacy LLC dba CVS Pharmacy #92489 is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Definition: Respondent**

For the purposes of terms and conditions one through seventeen, “respondent” shall refer to CVS Pharmacy LLC dba CVS Pharmacy #9248. Terms and conditions one through seventeen stated herein shall bind and be applicable to the licensed premises and to all owners, managers, officers, administrators, members, directors, trustees, associates, or partners thereof. For purposes of compliance with any term or condition, any report, submission, filing, payment, or appearance required to be made by respondent to or before the board or its designee shall be made by an owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

2. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:
• an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
• a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment;
• a conviction of any crime; or
• discipline, citation, or other administrative action filed by any state or federal agency which involves respondent’s pharmacy permit or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distributing, billing, or charging for any dangerous drug, and/or dangerous device or controlled substance.

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

6. **Reimbursement of Board Costs**

   As a condition precedent to successful completion of probation, respondent shall pay to the
board its costs of investigation and prosecution in the amount of $10,000. Respondent shall make
said payments as follows: payment shall be made within ninety (90) days. There shall be no
deviation from this schedule absent prior written approval by the board or its designee. Failure to
pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

7. **Probation Monitoring Costs**

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

8. **Status of License**

   Respondent shall, at all times while on probation, maintain current pharmacy permit with
the board. Failure to maintain current licensure shall be considered a violation of probation.

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

9. **License Surrender While on Probation/Suspension**

   Following the effective date of this decision, should respondent wish to discontinue
business, respondent may tender the premises license to the board for surrender. The board or its
designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Respondent may not apply for any new license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

Respondent further stipulates that it shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

10. **Sale or Discontinuance of Business**

During the period of probation, should respondent sell, trade or transfer all or part of the ownership of the licensed entity, discontinue doing business under the license issued to respondent, or should practice at that location be assumed by another full or partial owner, person, firm, business, or entity, under the same or a different premises license number, the board or its designee shall have the sole discretion to determine whether to exercise continuing jurisdiction over the licensed location, under the current or new premises license number, and/or carry the remaining period of probation forward to be applicable to the current or new premises license number of the new owner.

11. **Notice to Employees**

Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions of probation by posting a notice, circulating a notice, or both. Additionally, respondent shall submit written notification to the board, within fifteen (15) days of the effective date of this decision, that this term has been satisfied. Failure to timely provide such notification to employees, or to timely submit such notification to the board shall be considered a violation of probation.
"Employees" as used in this provision includes all full-time, part-time, volunteer, temporary and relief employees and independent contractors employed or hired at any time during probation.

12. Owners and Officers: Knowledge of the Law

Respondent CVS shall provide, within thirty (30) days after the date of this Decision, signed and dated statement(s) from an authorized corporate agent other than its PIC stating under penalty of perjury that said individual(s) has read and is familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall be considered a violation of probation.

13. Premises Open for Business

Respondent shall remain open and engaged in its ordinary business as a pharmacy in California for a minimum of 40 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during with this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation, unless respondent is informed otherwise in writing by the board or its designee. If respondent is not open and engaged in its ordinary business as a pharmacy for a minimum of 40 hours in any calendar month, for any reason (including vacation), respondent shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification shall include at minimum all of the following: the date(s) and hours respondent was open; the reason(s) for the interruption or why business was not conducted; and the anticipated date(s) on which respondent will resume business as required. Respondent shall further notify the board in writing with ten (10) days following the next calendar month during which respondent is open and engaged in its ordinary business as a pharmacy in California for a minimum of 40 hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

14. Posted Notice of Probation

Respondent shall prominently post a probation notice provided by the board or its designee in a place conspicuous to and readable by the public within two (2) days of receipt thereof from
the board or its designee. Failure to timely post such notice, or to maintain the posting during the entire period of probation, shall be considered a violation of probation.

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

15. **Violation of Probation**

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

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

16. **Completion of Probation**

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

17. **Community Services Program**

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services to a community or charitable facility or agency for $10,000 worth of Naloxone and/or sharps containers per year of probation.

Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. Respondent shall report on progress with the community service program in the quarterly reports.
Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

IT IS FURTHER ORDERED that Pharmacist License No. RPH 65725 issued to Respondent Stathoudakis is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions.

18. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo 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.

19. **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.

20. 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.

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

22. Continuing Education

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

23. Reporting of Employment and Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 5926 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

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

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause (a) Entity direct supervisor, (b) Entity pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of Entity employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5926, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent’s responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number 5926, and the terms and conditions imposed thereby.

If respondent works for or is employed by or through an employment service, respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board of the decision in case number 5926, and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the board upon request.

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

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

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

24. Notification of Change(s) in Name, Address(es), or Phone Number(s)

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

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

25. Restrictions on Supervision and Oversight of Licensed Facilities

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

26. Probation Monitoring Costs

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

27. Status of License

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

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

28. **License Surrender While on Probation**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish his license, including any indicia of licensure issued by the board, along with a request to surrender the license. The board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable.

Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (10) days of notification by the board that the surrender is accepted if not already provided.

Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

28. **Practice Requirement-Extension of Probation**

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

If respondent does not practice as a pharmacist in California for the minimum number of
hours in any calendar month, for any reason (including vacation), respondent shall notify the
board in writing within ten (10) days of the conclusion of that calendar month. This notification
shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
interruption or reduction in practice; and the anticipated date(s) on which respondent will resume
practice at the required level. Respondent shall further notify the board in writing within ten (10)
days following the next calendar month during which respondent practices as a pharmacist in
California for the minimum of hours. Any failure to timely provide such notification(s) shall be
considered a violation of probation.

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

30. No Ownership or Management of Licensed Premises

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

31. Violation of Probation

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

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

32. Completion of Probation

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

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeff J. Astarabadi. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 1/25/18

STAVROS MICHAEL STATHOUDAKIS
Respondent

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

DATED: 1/25/18

STIPULATED SETTLEMENT (5929)

JEFF J. ASTARABADI
Attorney for Respondent
ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeff J. Astarabadi. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: ____________________________

CVS PHARMACY LLC DBA CVS PHARMACY
#9248
Respondent

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

DATED: 4/12/2018

STAVROS MICHAEL STAHOUDAKIS
Respondent

I have read and fully discussed with Respondent CVS Pharmacy LLC dba CVS Pharmacy #9248 the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4/25/18

JEFF J. ASTARABADI
Attorney for Respondent
ENDORSEMENT

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

Dated: 4/25/2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
DAVID BRICE
Supervising Deputy Attorney General

ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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STIPULATED SETTLEMENT (5926)
Exhibit A

Accusation No. 5926
In the Matter of the Accusation Against:

CVS PHARMACY LLC,
dba CVS/PHARMACY #9248
1700 McHenry Avenue
Modesto, CA 95350
Pharmacy Permit No. PHY 49725

and

STAVROS MICHAEL STATHOUDAKIS
1700 Joann Avenue
Modesto, CA 95350
Pharmacist License No. RPH 65725

Respondents.

Complainant alleges:

PARTIES

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

2. On or about November 10, 2008, the Board issued Pharmacy Permit Number PHY 49725 to CVS Pharmacy LLC ("Respondent CVS"), doing business as CVS/Pharmacy #9248. On and between October 14, 2012 and August 4, 2015, Stavros Michael Stat HUDAKIS
("Respondent Stathoudakis") was the pharmacist-in-charge. The pharmacy permit was in full
force and effect at all times relevant to the charges brought herein and will expire on November 1, 2017, unless renewed.

3. On or about August 16, 2011, the Board issued Pharmacist License Number RPH 65725 to Respondent Stathoudakis. The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2018, unless renewed.

JURISDICTION

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

5. Code section 4300 states, in pertinent part:

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

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

      (1) Suspending judgment.

      (2) Placing him or her upon probation.

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

      (4) Revoking his or her license.

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

6. Code section 4300.1 states:

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

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STATUTORY AND REGULATORY PROVISIONS

7. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct ... Unprofessional conduct shall include, but is not limited to, any of the following:

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

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

8. Code section 4059, subdivision (a), states, in pertinent part:

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

9. Code section 4060 provides:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

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

10. Code section 4081 states, in pertinent part:

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

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

11. Code section 4113, subdivision (c), states that "[t]he pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

12. Code section 4306.5 (b) provides in pertinent part that unprofessional conduct may include any of the following:

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

13. Health and Safety Code section 11153, subdivision (a), states:

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

14. Title 16, California Code of Regulations, section 1718 states, in pertinent part:

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

15. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG CLASSIFICATIONS

16. "Roxicodone", a brand name for oxycodone, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M). Roxicodone is also a dangerous drug pursuant to Code section 4022 and is used to treat pain.

17. "Norco", a brand name for hydrocodone/acetaminophen, is a Schedule III controlled substance pursuant to Health and Safety Code section 11056. Norco is also a dangerous drug pursuant to Code section 4022 and is used to treat pain.

18. "Xanax", a brand name for alprazolam, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1). Xanax is also a dangerous drug pursuant to Code section 4022 and is used to treat anxiety.

19. "Adipex-P", a brand name for phentermine, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (f)(4). Adipex-P is also a dangerous drug pursuant to Code section 4022 and is used as an appetite suppressant.

20. "Soma", a brand name for carisoprodol, is a Schedule IV Controlled Substance pursuant to Title 21, Code of Federal Regulations, section 1308.14, subdivision (c)(6). Soma is also a dangerous drug pursuant to Code section 4022 and is used as a muscle relaxant.

21. "Adderall", a brand name for amphetamine salts, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1). Adderall is also a dangerous drug pursuant to Code section 4022 and is used to treat Attention Deficit Hyperactivity Disorder.

FACTUAL ALLEGATIONS

22. On or about January 13, 2015, pharmacy technician Mona Chavarin ("Chavarin") was arrested by the Modesto Police Department for, among other things, filling altered prescriptions
and criminal conspiracy. The arrest report indicated that Lenele Nunez ("Nunez") stole prescription pads belonging to physician assistant R. S. and sold them to Christina Martinez ("Martinez"). Martinez forged the prescriptions, and she and Lance Wilson had the prescriptions filled at CVS/Pharmacy #9248 ("CVS #9248") where Chavarin was employed. Chavarin verified the prescriptions through Nunez. Fourteen patient names, 8 actual and 6 fictional, were connected to the fraud and approximately 286 prescriptions were issued. The prescriptions were filled for approximately 17,350 oxycodone tablets, 23,760 hydrocodone tablets, and 7,650 tablets of Schedule IV controlled drugs.

23. On or about January 13, 2015, the Modesto Police Department Narcotic Enforcement Team ("MNET") and Drug Enforcement Administration ("DEA") agents served a search warrant at Central Valley Pain Management ("CVPM") in Modesto, California, where R. S. was employed as a physician assistant. The search warrant was part of the investigation of the fraudulent prescriptions; prescriptions were forged for oxycodone, mixed amphetamine salts, hydrocodone/acetaminophen (H/APAP), alprazolam, phentermine, and carisoprodol. Detective M., the lead investigator on the MNET, informed Board Inspector H. ("inspector") that Nunez was the officer manager for CVPM. All of the prescription forms were forged using R. S.'s name. Martinez brought the fraudulent prescriptions to CVS #9248 when Chavarin was on duty. Martinez or Wilson returned at a later time to receive the dispensed medication from Chavarin. MNET identified 14 fraudulent patient records at CVS #9248.

24. On or about January 14, 2015, the inspector assisted the MNET in serving a search warrant at CVS #9248 (DEA agents were also present at the time). Respondent Stathoudakis ("Stathoudakis") assisted with the retrieval of documents for the search warrant. The inspector worked with the MNET officers in locating patient prescription profiles and pertinent prescription documents for each fraudulent patient identified by the MNET. The MNET removed all original documents.

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1 On or about August 29, 2016, Chavarin pled guilty in United States District Court, Eastern District of California, Case No. 1:15CR00046-LJO-SKO, to one count of violating 21 U.S.C. sections 846, 841 (a) (1) and 841 (b) (1) (c) (Conspiracy to distribute oxycodone and hydrocodone).
fraudulent prescription documents from the pharmacy (the inspector obtained copies of the fraudulent prescriptions and patient prescription profiles on October 28, 2015).

25. The inspector reviewed the patient prescription records for the fraudulent prescriptions with Stathoudakis. None of the records listed any additional medication other than the controlled substances noted above. There were no records of any notes either in the pharmacy’s computer records or written on the prescription documents indicating that pharmacy staff called the prescriber or the prescriber’s agent to verify any of the fraudulent prescriptions. There were no notes from the pharmacist or any other staff about the patient, patient’s medical condition(s), history, or diagnosis. As the inspector and Stathoudakis reviewed each prescription profile, they noticed that the fraudulent prescriptions were all paid using cash discount cards. The inspector pointed out to Stathoudakis various “red flags” on the prescriptions; most of the prescriptions were for “Holy Trinity” drugs (“Holy Trinity” is the street name for the combination of oxycodone IR 30 mg, Norco or H/APAP 10/325 mg, and Xanax 2 mg), the dosage strengths were high, large quantities of commonly abused controlled substances were prescribed, and the prescriptions were paid for in cash. Further, the diagnosis code was completed on the prescription forms, which was unusual.

26. After the MNET and DEA left, the inspector completed an inspection of the pharmacy. The inspector found that approximately 213 of the fraudulent prescriptions at the pharmacy appeared to be typed by Chavarin, using the initials “MC”. The date range for all of the fraudulent prescriptions was from August 2013 to January 2015. Most of the prescriptions were typed many days after the date written on the prescription and dispensed even later. Few prescriptions were typed and dispensed on the same shift. The inspector noticed that patient phone numbers were written on each prescription; some of the same phone numbers were written on prescriptions for different patients and several phone numbers applied to multiple patients.

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2 A cash discount card is often billed the same way as regular insurance and includes an ID number. However, the patient must provide his or her name, address, and date of birth. Patients sometimes receive a discounted cash price for a prescription.
27. On or about January 20, 2015, the inspector faxed Stathoudakis a letter requesting that he complete an audit of oxycodone IR 30 mg, Norco 10 mg, alprazolam 2 mg and promethazine with codeine syrup beginning on May 1, 2013. Stathoudakis was also requested to provide the inspector with supporting documentation for the audit data. The inspector advised Stathoudakis that he could choose any day to end the audit and conduct an inventory.

28. On or about February 12, 2015, the inspector received copies of Chavarin’s employment records from CVS. The records showed that Chavarin was hired as a pharmacy technician at CVS #9248 on January 8, 2012, and that Stathoudakis was her supervisor.

29. On or about February 23, 2015, the inspector received audit documents from CVS and noticed that the audit began on May 1, 2014, and was conducted through the close of business on January 26, 2015. The inspector returned to CVS #9248 and retrieved a copy of the May 1, 2014 inventory (the inspector found the beginning date of May 1, 2014 acceptable). The inspector found in reviewing the data submitted by CVS and verifying the audit that CVS #9248 had notable overages of oxycodone IR 30 mg, hydrocodone/acetaminophen 10/326 mg tablets, alprazolam 2 mg, and promethazine with codeine syrup, as set forth below.

30. On or about December 7, 2015, the inspector sent CVS #9248 a letter requesting the names of the pharmacists who originally verified each of the fraudulent prescriptions dispensed at the pharmacy from July 3, 2013 to January 14, 2015 (the fraudulent prescriptions were listed on an attachment), including the prescription number, drug and strength, quantity, and the date the pharmacists verified the prescriptions. CVS Health provided the inspector with the information as requested.

**FIRST CAUSE FOR DISCIPLINE**
(Unlawful Furnishing of Dangerous Drugs)

31. Respondent CVS is subject to disciplinary action pursuant to Code section 4301, subdivision (o), for unprofessional conduct, in that Respondent violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate state laws governing pharmacy, specifically, Code section 4060 and 4059, subdivision (a), as follows: In and between August 2013 and January 2015, while employed and on duty at CVS/Pharmacy
Respondent’s pharmacists verified and dispensed approximately 238 fraudulent prescriptions for the controlled substances oxycodone, mixed amphetamine salts, hydrocodone/acetaminophen, alprazolam, phentermine, and carisoprodol, including the following:

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<td>6. 387427</td>
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SECOND CAUSE FOR DISCIPLINE
(Failure to Exercise Corresponding Responsibility with Regard to the Dispensing or Furnishing of Controlled Substances)

32. Respondent CVS is subject to disciplinary action pursuant to Code section 4301, subdivision (j), for unprofessional conduct, in that Respondent violated state laws regulating controlled substances, specifically, Health and Safety Code section 11153, subdivision (a), as follows: In and between August 2013 and January 2015, while employed and on duty at CVS/Pharmacy #9248, Respondent’s pharmacists failed to exercise or implement their best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances and dangerous drugs, as set forth in paragraph 31 above.

THIRD CAUSE FOR DISCIPLINE
(Failure to Maintain a Current Inventory of All Dangerous Drugs)

33. Respondent CVS is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate state laws and regulations governing pharmacy, specifically, Code section 4081, subdivision (a), and Title 16, California Code of Regulations, section 1718, as follows: On and between May 1, 2014 and

(CVS PHARMACY LLC, DBA CVS/PHARMACY #9248) ACCUSATION
January 26, 2015, Respondent failed to maintain an accurate or current inventory of all dangerous


drugs in the pharmacy, resulting in an overage of 478 oxycodone IR 30 mg tablets, 7,920

hydrocodone/acetaminophen 10/325 mg tablets, 865 alprazolam 2 mg tablets, and 543 ml of

promethazine with codeine syrup.

FOURTH CAUSE FOR DISCIPLINE
(Unlawful Furnishing of Dangerous Drugs)

34. Respondent Stathoudakis is subject to disciplinary action pursuant to Code section

4301, subdivision (o), for unprofessional conduct, in that Respondent, as pharmacist-in-charge of

CVS/Pharmacy #9248, violated or attempted to violate, directly or indirectly, assisted in or

abetted the violation of, or conspired to violate state laws governing pharmacy, specifically, Code

section 4059, subdivision (a), in conjunction with 4113 and 4060 as follows: In and between

August 2013 and January 2015, Respondent’s pharmacists verified and dispensed approximately

238 fraudulent prescriptions for the controlled substances oxycodone, mixed amphetamine salts,

hydrocodone/acetaminophen, alprazolam, phentermine, and carisoprodol, including the

prescriptions identified in paragraph 31 above.

FIFTH CAUSE FOR DISCIPLINE
(Failure to Exercise Corresponding Responsibility with Regard to
the Dispensing or Furnishing of Controlled Substances)

35. Respondent Stathoudakis is subject to disciplinary action pursuant to Code section

4301, subdivision (j) and 4306.5 (b), for unprofessional conduct, in that Respondent, as

pharmacist-in-charge of CVS/Pharmacy #9248, violated state laws regulating controlled

substances, specifically, Health and Safety Code section 11153, subdivision (a), as follows: In

and between August 2013 and January 2015, Respondent’s pharmacists failed to exercise or

implement their best professional judgment or corresponding responsibility with regard to the

dispensing or furnishing of controlled substances and dangerous drugs, as set forth in paragraph

31 above.

SIXTH CAUSE FOR DISCIPLINE
(Failure to Maintain a Current Inventory of All Dangerous Drugs)

36. Respondent Stathoudakis is subject to disciplinary action for unprofessional conduct

pursuant to Code section 4301, subdivision (o), in that Respondent, as pharmacist-in-charge of
CVS/Pharmacy #9248, violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate state laws and regulations governing pharmacy, specifically, Code section 4081, subdivision (a), and Title 16, California Code of Regulations, section 1718, as follows: On and between May 1, 2014 and January 26, 2015, Respondent failed to maintain an accurate or current inventory of all dangerous drugs in the pharmacy, resulting in an average of 478 oxycodone IR 30 mg tablets, 7,920 hydrocodone/acetaminophen 10/325 mg tablets, 865 alprazolam 2 mg tablets, and 543 ml of promethazine with codeine syrup.

**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 49725, issued to CVS Pharmacy LLC, doing business as CVS/Pharmacy #9248;
2. Revoking or suspending Pharmacist License Number RPH 65725, issued to Stavros Michael Stathoudakis;
3. Ordering CVS Pharmacy LLC, doing business as CVS/Pharmacy #9248, and Stavros Michael Stathoudakis 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: 10/7/17

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

SA2016103131