

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

In the Matter of the Accusation Against:

**HEIDI A. QUAERNA
3913 Ingraham Street, Apt. U108
San Diego, CA 92109**

Pharmacist License No. RPH 63706

Respondent.

Case No. 6008

OAH No. 2017061102

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 February 15, 2018.

It is so ORDERED on January 16, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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9 **BEFORE THE**
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 6008

12 **HEIDI A. QUAERNA**
13 **3913 Ingraham Street, Apt. U108**
14 **San Diego, CA 92109**

OAH No. 2017061102

15 **Pharmacist License No. RPH 63706**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

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

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
21 (Board). She brought this action solely in her official capacity and is represented in this matter by
22 Xavier Becerra, Attorney General of the State of California, by Sherry L. Ledakis, Deputy
23 Attorney General.

24 2. Respondent Heidi A. Quaerna (Respondent) is represented in this proceeding by
25 attorney Elizabeth M. Brady, whose address is: 8880 Rio San Diego, Suite 800, San Diego, CA
26 92108-1642.

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1 3. On or about February 16, 2010, the Board issued Pharmacist License No. RPH 63706
2 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 6008, and will expire on November 30, 2017, unless renewed.

4 JURISDICTION

5 4. Accusation No. 6008 was filed before the Board, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on April 5, 2017. Respondent timely filed her Notice of Defense contesting the
8 Accusation.

9 5. A true and correct copy of Accusation No. 6008 is attached as Exhibit A and
10 incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 6008. Respondent has also carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
15 Order.

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

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

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 6008.

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10. Respondent agrees that her Pharmacist License No. RPH 63706 is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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.

12. 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.

13. 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.

14. 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:

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 63706 issued to Respondent
3 Heidi A. Quaerna is revoked. However, the revocation is stayed and Respondent is placed on
4 probation for five (5) years on the following terms and conditions.

5 **1. Obey All Laws**

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

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

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

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

20 **2. Report to the Board**

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

1 **3. Interview with the Board**

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

7 **4. Cooperate with Board Staff**

8 Respondent shall cooperate with the board's inspection program and with the board's
9 monitoring and investigation of respondent's compliance with the terms and conditions of her
10 probation. Failure to cooperate shall be considered a violation of probation.

11 **5. Continuing Education**

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

14 **6. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 6008 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 respondent undertaking any new employment, respondent shall cause her direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 6008, and terms and conditions imposed
23 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)
24 submit timely acknowledgment(s) to the board.

25 If respondent works for or is employed by or through a pharmacy employment service,
26 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
27 licensed by the board of the terms and conditions of the decision in case number 6008 in advance

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1 of the respondent commencing work at each licensed entity. A record of this notification must be
2 provided to the board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of respondent undertaking any new employment by or through a pharmacy employment
5 service, respondent shall cause her direct supervisor with the pharmacy employment service to
6 report to the board in writing acknowledging that she has read the decision in case number 6008
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
8 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

12 "Employment" within the meaning of this provision shall include any full-time,
13 part-time; temporary, relief or pharmacy management service as a pharmacist or any
14 position for which a pharmacist license is a requirement or criterion for employment,
15 whether the respondent is an employee, independent contractor or volunteer.

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

18 During the period of probation, respondent shall not supervise any intern pharmacist, be the
19 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
20 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
21 unauthorized supervision responsibilities shall be considered a violation of probation.

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the
24 board its costs of investigation and prosecution in the amount of \$8,093.50. Respondent shall
25 make said payments as determined by the Probation Monitor.

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

1 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
2 reimburse the board its costs of investigation and prosecution.

3 **9. Probation Monitoring Costs**

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

8 **10. Status of License**

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

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

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

17 Following the effective date of this decision, should respondent cease practice due to
18 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
19 respondent may tender her license to the board for surrender. The board or its designee shall have
20 the discretion whether to grant the request for surrender or take any other action it deems
21 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent

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

24 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to
25 the board within ten (10) days of notification by the board that the surrender is accepted.
26 Respondent may not reapply for any license from the board for three (3) years from the effective
27 date of the surrender. Respondent shall meet all requirements applicable to the license sought as

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1 of the date the application for that license is submitted to the board, including any outstanding
2 costs.

3 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
4 **Employment**

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

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

12 **13. Tolling of Probation**

13 Except during periods of suspension, respondent shall, at all times while on probation, be
14 employed as a pharmacist in California for a minimum of forty hours per calendar month. Any
15 month during which this minimum is not met shall toll the period of probation, *i.e.*, the period of
16 probation shall be extended by one month for each month during which this minimum is not met.
17 During any such period of tolling of probation, respondent must nonetheless comply with all
18 terms and conditions of probation.

19 Should respondent, regardless of residency, for any reason (including vacation) cease
20 practicing as a pharmacist for a minimum of forty hours (40) per calendar month in California,
21 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
22 must further notify the board in writing within ten (10) days of the resumption of practice. Any
23 failure to provide such notification(s) shall be considered a violation of probation.

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

27 "Cessation of practice" means any calendar month during which respondent is
28 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and

1 Professions Code section 4000 *et seq.* "Resumption of practice" means any calendar
2 month during which respondent is practicing as a pharmacist for at least forty (40)
3 hours as a pharmacist as defined by Business and Professions Code section 4000 *et*
4 *seq.*

5 **14. Violation of Probation**

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

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

18 **15. Completion of Probation**

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

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

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

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

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

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

5 Probation shall be automatically extended until respondent successfully completes the PRP.

6 Any person terminated from the PRP program shall be automatically suspended by the board.

7 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

11 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

20 During suspension, respondent shall not engage in any activity that requires the
21 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

22 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
23 designated representative for any entity licensed by the board.

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

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

28 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not

1 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
2 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

3 **17. Random Drug Screening**

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

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

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

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

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

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

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

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

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

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

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

19 During suspension, respondent shall not enter any pharmacy area or any portion of the
20 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
21 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices

22 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
23 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
24 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
25 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
26 and controlled substances. Respondent shall not resume practice until notified by the board.

27 During suspension, respondent shall not engage in any activity that requires the
28 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
2 designated representative for any entity licensed by the board.

3 Subject to the above restrictions, respondent may continue to own or hold an interest in any
4 licensed premises in which she holds an interest at the time this decision becomes effective unless
5 otherwise specified in this order.

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

7 **20. Supervised Practice**

8 During the period of probation, respondent shall practice only under the supervision of a
9 licensed pharmacist not on probation with the board. Upon and after the effective date of this
10 decision, respondent shall not practice pharmacy and her license shall be automatically suspended
11 until a supervisor is approved by the board or its designee. Respondent's level of supervision
12 shall be set by the Pharmacists' Recovery Program. The supervision shall be either:

13 Continuous - At least 75% of a work week

14 Substantial - At least 50% of a work week

15 Partial - At least 25% of a work week

16 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

17 Within thirty (30) days of the effective date of this decision, respondent shall have her
18 supervisor submit notification to the board in writing stating that the supervisor has read the
19 decision in case number 6008 and is familiar with the required level of supervision as determined
20 by the Pharmacists' Recovery Program. It shall be the respondent's responsibility to ensure that
21 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to

22 the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
23 acknowledgements to the board shall be considered a violation of probation.

24 If respondent changes employment, it shall be the respondent's responsibility to ensure that
25 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
26 the board. Respondent shall have her new supervisor, within fifteen (15) days after employment
27 commences, submit notification to the board in writing stating the direct supervisor and

28 pharmacist-in-charge have read the decision in case number 6008 and is familiar with the level of

1 supervision as determined by the board. Respondent shall not practice pharmacy and her license
2 shall be automatically suspended until the board or its designee approves a new supervisor.

3 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
4 acknowledgements to the board shall be considered a violation of probation.

5 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

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

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

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

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

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

23 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
24 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
25 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
26 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
27 days following the effective date of this decision and shall immediately thereafter provide written

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proof thereof to the board. Failure to comply with any legal or regulatory requirement shall be considered a violation of probation.

2. Probation Course

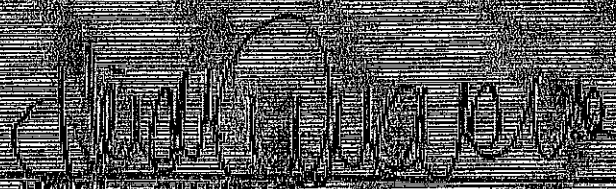
Within sixty (60) calendar days of the effective date of the decision, respondent shall enroll in a three (3) credit, non-graduate course approved in advance by the board of pharmacy. Failure to initiate the course during the first year of probation, not completed by the second year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the board by the date specified and the date either completing the course.

3. Acknowledgment

I have carefully read the above Stipulated Settlement and Disciplinary Order. I have fully discussed it with my attorney, Elizabeth McDonald. I understand the terms and conditions 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: 11/14/17



ELIZABETH McDONALD
Attorney for Respondent

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

DATED: Nov. 14, 2017

ELIZABETH MCDONALD
Attorney for Respondent

1 ENDORSEMENT

2
3 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
4 submitted for consideration by the Board of Pharmacy.

5
6 Dated: *November 29, 2017*

Respectfully submitted,

7 XAVIER BECERRA
8 Attorney General of California
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Exhibit A

Accusation No. 6008

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

11
12 In the Matter of the Accusation Against:

Case No. 6008

13 **HEIDI A. QUAERNA**
3913 Ingraham Street, Apt. U108
14 San Diego, CA 92109

ACCUSATION

15 **Pharmacist License No. RPH 63706**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about February 16, 2010, the Board of Pharmacy (Board) issued Pharmacist
23 License Number RPH 63706 to Heidi A. Quaerna (Respondent). The Pharmacist License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on
25 November 30, 2017, unless renewed.

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JURISDICTION

3. 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.

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

5. Section 4300 of the Code states:

(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.

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

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

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or

1 to any other person or to the public, or to the extent that the use impairs the ability of
2 the person to conduct with safety to the public the practice authorized by the license.

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4 7. Section 4060 of the Code states:

5 No person shall possess any controlled substance, except that furnished to a
6 person upon the prescription of a physician, dentist, podiatrist, optometrist,
7 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
8 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
9 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
10 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
11 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
12 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
13 shall not apply to the possession of any controlled substance by a manufacturer,
14 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
15 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
16 physician assistant, when in stock in containers correctly labeled with the name and
17 address of the supplier or producer.

18

19 8. Section 4327 of the Code states:

20 Any person who, while on duty, sells, dispenses or compounds any drug while under the
21 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

22 9. Health and Safety Code section 11170 states:

23 No person shall prescribe, administer, or furnish a controlled substance for himself.

24 COST RECOVERY

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

29 DRUGS

30 11. Cocaine is a powerfully addictive, psychoactive, stimulant drug. It is a Scheduled I
31 controlled substance per Health and Safety Code section 11054(f)(1) and a dangerous drug per
32 Code section 4022.

33 ///

1 12. Marijuana is a herb that contains chemicals called cannabinoids that affect the central
2 nervous system. Some people use marijuana recreationally to create a sense of well-being or to
3 alter the senses. Marijuana is also used for medicinal purposes for the treatment of weight loss or
4 appetite loss due to AIDS, and for nausea and vomiting caused by chemotherapy. It is a Scheduled
5 I controlled substance per Health and Safety Code section 11054(d)(13) and a dangerous drug per
6 Code section 4022.

7 13. Xanax is the brand name for alprazolam, a benzodiazepine, and is used to treat
8 anxiety disorders, panic disorders, and anxiety caused by depression. It is a Schedule IV
9 controlled substance per Health and Safety Code section 11057(d)(1) and a dangerous drug per
10 Code section 4022.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Self-Administration of Controlled Substances)**

13 14. Respondent is subject to disciplinary action for unprofessional conduct under Code
14 section 4301, subdivision (h) in that she administered controlled substances to herself to the
15 extent that her use impaired her ability to safely perform the duties of a licensed pharmacist, as set
16 forth below.

17 15. On or about June 3, 2013, Respondent was employed as a pharmacist at OptumRx in
18 Carlsbad, California. On April 27, 2016, Respondent was selected to submit to random drug
19 testing per the terms of her employment contract. On May 5, 2016, Respondent's test results were
20 positive for cocaine, marijuana, alprazolam and benzodiazepines. Respondent was terminated
21 from her employment on May 6, 2016.

22 16. On July 22, 2016, Respondent met with an Inspector for the Board. Respondent
23 denied ingesting any of the drugs she tested positive for. Her explanation for the positive drug
24 test was that her boyfriend used cocaine, marijuana and alprazolam and that these drugs may have
25 passed into her system during sexual intercourse with her boyfriend resulting in her positive drug
26 test.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Dishonesty)**

3 17. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (f) for dishonesty in that she denied using controlled substances and dangerous
5 drugs as set forth above, in paragraphs 14 through 16, which paragraphs are incorporated herein
6 by reference.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Dispensing While Under the Influence)**

9 18. Respondent is subject to disciplinary action for unprofessional conduct under Code
10 section 4301 and 4327 in that, while on duty as a pharmacist, she sold, dispensed or compounded
11 any drug, as set forth above in paragraphs 14 through 16, which paragraphs are incorporated
12 herein by reference.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Unlawful Possession of Controlled Substances)**

15 19. Respondent is subject to disciplinary action for unprofessional conduct under section
16 4060 in that she possessed control substances and or dangerous drugs without a valid prescription,
17 as set forth above in paragraphs 14 through 16, which paragraphs are incorporated herein by
18 reference.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacist License Number RPH 63706, issued to Heidi A.
23 Quaerna;

24 2. Ordering Heidi A. Quaerna to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3; and

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

DATED: 3/22/17

Virginia Herold

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

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A. CHIEF OF COURT