

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

In the Matter of the Accusation Against:

ROBERT ONTIVEROS MARTINS, Respondent

Pharmacist License No. RPH 69891

Agency Case No. 6652

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 March 19, 2020.

It is so ORDERED on February 18, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

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

In the Matter of the Accusation Against:

Case No. 6652

**ROBERT ONTIVEROS MARTINS
604 S. Beach Blvd #51
Anaheim, CA 92804**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Pharmacist License No. RPH 69891

Respondent.

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

PARTIES

1. Anne Sodergren (Complainant) is the Interim 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 Elaine Yan, Deputy Attorney General.

2. Respondent Robert Ontiveros Martins (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about October 1, 2013, the Board issued Pharmacist License No. RPH 69891 to Robert Ontiveros Martins (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 6652, and will expire on October 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 6652 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 8, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 6652 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 6652. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 6652.

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10. Respondent agrees that his Pharmacist License is subject to discipline and he 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 of Pharmacy. Respondent understands and agrees 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 Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 69891 issued to Respondent Robert Ontiveros Martins is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1 **1. Obey All Laws**

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

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

5 an arrest or issuance of a criminal complaint for violation of any provision of the

6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws

8 a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
9 criminal proceeding to any criminal complaint, information or indictment

10 a conviction of any crime

11 the filing of a disciplinary pleading, issuance of a citation, or initiation of another
12 administrative action filed by any state or federal agency which involves

13 respondent's license or which is related to the practice of pharmacy or the

14 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
15 device or controlled substance.

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

17 **2. Report to the Board**

18 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
19 designee. The report shall be made either in person or in writing, as directed. Among other
20 requirements, respondent shall state in each report under penalty of perjury whether there has
21 been compliance with all the terms and conditions of probation.

22 Failure to submit timely reports in a form as directed shall be considered a violation of
23 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
24 total period of probation. Moreover, if the final probation report is not made as directed,
25 probation shall be automatically extended until such time as the final report is made and accepted
26 by the board.

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

14 **5. Continuing Education**

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

17 **6. Reporting of Employment and Notice to Employers**

18 During the period of probation, respondent shall notify all present and prospective
19 employers of the decision in case number 6652 and the terms, conditions and restrictions imposed
20 on respondent by the decision, as follows:

21 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
22 undertaking any new employment, respondent shall report to the board in writing the name,
23 physical address, and mailing address of each of his employer(s), and the name(s) and telephone
24 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated
25 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
26 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
27 employment. Respondent shall sign and return to the board a written consent authorizing the
28 board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and

1 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
2 concerning respondent's work status, performance, and monitoring. Failure to comply with the
3 requirements or deadlines of this condition shall be considered a violation of probation.

4 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
5 respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b)
6 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
7 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
8 board in writing acknowledging that the listed individual(s) has/have read the decision in case
9 number 6652, and terms and conditions imposed thereby. If one person serves in more than one
10 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
11 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
12 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
13 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
14 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
15 in case number 6652, and the terms and conditions imposed thereby.

16 If respondent works for or is employed by or through an employment service, respondent
17 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
18 of the decision in case number 6652, and the terms and conditions imposed thereby in advance of
19 respondent commencing work at such licensed entity. A record of this notification must be
20 provided to the board upon request.

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

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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 license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

7. 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.

8. 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.

9. 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 \$3,065.00.

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.

10. 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.

1 **11. Status of License**

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

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

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

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

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

26 **13. Practice Requirement – Extension of Probation**

27 Except during periods of suspension, respondent shall, at all times while on probation, be
28 employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any

1 month during which this minimum is not met shall extend the period of probation by one month.
2 During any such period of insufficient employment, respondent must nonetheless comply with all
3 terms and conditions of probation, unless respondent receives a waiver in writing from the board
4 or its designee.

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

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

18 14. **Violation of Probation**

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

25 If respondent violates probation in any respect, the board, after giving respondent notice
26 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
27 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
28 probation, or the preparation of an accusation or petition to revoke probation is requested from

1 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
2 probation shall be automatically extended until the petition to revoke probation or accusation is
3 heard and decided.

4 **15. Completion of Probation**

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

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

8 By no later than ten (10) days after the effective date of this decision, respondent shall have
9 completed all of the following: contacted the Pharmacists Recovery Program (PRP) for
10 evaluation; enrolled in the PRP; completed, signed, and returned the treatment contract as well as
11 any addendums required or suggested by the PRP; successfully completed registration for any
12 drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and
13 begun compliance with the drug or alcohol testing protocol(s). Respondent shall successfully
14 participate in the PRP and complete the treatment contract and any addendums required or
15 suggested by the PRP. The costs for PRP participation shall be borne by the respondent.

16 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
17 the effective date of this decision is no longer considered a self-referral under Business and
18 Professions Code section 4362 (a)(2). Respondent shall successfully participate in and complete
19 his or her current contract and any subsequent addendums with the PRP.

20 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
21 timely paid to the PRP shall constitute a violation of probation. The board will collect unpaid
22 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

23 Any of the following shall result in the automatic suspension of practice by respondent and
24 shall be considered a violation of probation:

25 Failure to contact, complete enrollment, and execute and return the treatment contract with
26 the PRP, including any addendum(s), within ten (10) days of the effective date of the decision as
27 directed by the PRP;

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1 Failure to complete registration for any drug or alcohol testing mandated by the treatment
2 contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10)
3 days of the effective date of the decision as directed by the PRP;

4 Failure to comply with testing protocols regarding daily check-in and/or failure to complete
5 a mandated test as directed by the PRP;

6 Any report from the PRP of material non-compliance with the terms and conditions of the
7 treatment contract and/or any addendum(s); or

8 Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

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

10 Probation shall be automatically extended until respondent successfully completes the PRP.
11 The board will provide notice of any such suspension or extension of probation.

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

21 During any suspension, respondent shall not engage in any activity that requires the
22 professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control
23 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or
24 retailing of dangerous drugs and/or dangerous devices or controlled substances.

25 Failure to comply with any requirement or deadline stated by this term shall be considered a
26 violation of probation.

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1 **17. Drug and Alcohol Testing**

2 Respondent, at his own expense, shall participate in testing as directed by the board or its
3 designee for the detection of alcohol, controlled substances, and dangerous drugs and/or
4 dangerous devices. Testing protocols may include biological fluid testing (urine, blood),
5 breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its
6 designee. All testing must be pursuant to an observed testing protocol, unless respondent is
7 informed otherwise in writing by the board or its designee. Respondent may be required to
8 participate in testing for the entire probation period and frequency of testing will be determined
9 by the board or its designee.

10 By no later than thirty (30) days after the effective date of this decision, respondent shall
11 have completed all of the following tasks: enrolled and registered with an approved drug and
12 alcohol testing vendor; provided that vendor with any documentation, and any information
13 necessary for payment by respondent; commenced testing protocols, including all required
14 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,
15 respondent shall fully cooperate with the testing vendor, and with the board or its designee, with
16 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to
17 cooperate timely shall be considered a violation of probation.

18 Respondent may be required to test on any day, including weekends and holidays.
19 Respondent is required to make daily contact with the testing vendor to determine if a test is
20 required, and if a test is required must submit to testing on the same day.

21 Prior to any vacation or other period of absence from the area where the approved testing
22 vendor provides services, respondent shall seek and receive approval from the board or its
23 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,
24 respondent shall enroll and register with the approved alternate drug testing vendor, provide to
25 that alternate vendor any documentation required by the vendor, including any necessary payment
26 by respondent. During the period of absence of the area, respondent shall commence testing
27 protocols with the alternate vendor, including required daily contacts with the testing vendor to
28 determine if testing is required, and required testing. Any failure to timely seek or receive

1 approval from the board or its designee, or to timely enroll and register with, timely commence
2 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be
3 considered a violation of probation.

4 Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its
5 designee may require respondent to timely provide documentation from a licensed practitioner
6 authorized to prescribe the detected substance demonstrating that the substance was administered
7 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such
8 documentation shall be provided by respondent within ten (10) days of being requested.

9 Any of the following shall be considered a violation of probation and shall result in
10 respondent being immediately suspended from practice as a pharmacist until notified by the board
11 in writing that he may resume practice: failure to timely complete all of the steps required for
12 enrollment/registration with the drug testing vendor, including making arrangements for payment;
13 failure to timely commence drug testing protocols; failure to contact the drug testing vendor as
14 required to determine testing date(s); failure to test as required; failure to timely supply
15 documentation demonstrating that a detected substance was taken pursuant to a legitimate
16 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or
17 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the
18 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In
19 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a
20 controlled substance or dangerous drug absent documentation that the detected substance was
21 taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee
22 shall inform respondent of the suspension and inform him to immediately leave work, and shall
23 notify respondent's employer(s) and work site monitor(s) of the suspension.

24 During any such suspension, respondent shall not enter any pharmacy area or any portion of
25 the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug
26 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
27 any area where dangerous drugs and/or dangerous devices or controlled substances are
28 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,

1 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
2 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
3 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
4 dangerous devices and controlled substances.

5 During any such suspension, respondent shall not engage in any activity that requires the
6 professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control
7 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or
8 retailing of dangerous drugs and/or dangerous devices.

9 Failure to comply with any such suspension shall be considered a violation of probation.
10 Failure to comply with any requirement or deadline stated by this term shall be considered a
11 violation of probation.

12 **18. Abstain from Drugs and Alcohol**

13 Respondent shall completely abstain from the possession or use of alcohol, controlled
14 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated
15 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a
16 necessary part of treatment. Respondent shall ensure that he is not in the same physical location
17 as individuals who are using illicit substances even if respondent is not personally ingesting the
18 drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled
19 substances, or their associated paraphernalia for which a legitimate prescription has not been
20 issued as a necessary part of treatment, or any physical proximity to persons using illicit
21 substances, shall be considered a violation of probation.

22 **19. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

23 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
24 attendance at a recognized and established substance abuse recovery support group in California
25 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
26 or its designee. Respondent must attend the number of group meetings per week or month
27 directed by the board or its designee, which shall typically be at least one per week. Respondent
28 shall continue regular attendance and submit signed and dated documentation confirming

1 attendance with each quarterly report for the duration of probation. Failure to attend or submit
2 documentation thereof shall be considered a violation of probation.

3 Where respondent is enrolled in the PRP, participation as required in a recovery group
4 meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any
5 deviation from participation requirements for the PRP-approved group shall be considered a
6 violation of probation.

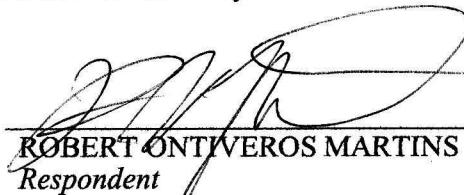
7 **20. No Ownership or Management of Licensed Premises**

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

15 **ACCEPTANCE**

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
17 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
18 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
19 bound by the Decision and Order of the Board of Pharmacy.

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21 DATED: 12/30/19

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ROBERT ONTIVEROS MARTINS
Respondent

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ENDORSEMENT

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

DATED: January 3, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General

ELAINE YAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6652

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Attorneys for Complainant

**BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the Accusation Against:

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ROBERT ONTIVEROS MARTINS

ACCUSATION

12300 Clearglen Avenue
Whittier, CA 90604

Pharmacist License No. RPH 69891

Respondent.

PARTIES

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

2. On or about October 1, 2013, the Board of Pharmacy (Board) issued Pharmacist License Number RPH 69891 to Robert Ontiveros Martins (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2019, unless renewed.

JURISDICTION

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

4. Section 4300 of the Code provides, in pertinent part, that every license issued by the board is subject to discipline, including suspension or revocation.

5. Section 4300.1 of the Code 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.

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. 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:

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

(I) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled

substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licentiate 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.

FIRST CAUSE FOR DISCIPLINE

(December 19, 2018 Criminal Conviction-DUI on January 16, 2019)

10. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a registered pharmacist. Specifically, on January 16, 2019, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol] and one misdemeanor count of violation Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more blood alcohol] in the criminal proceeding entitled *The People of the State of California v. Robert Ontiveros Martins* (Super. Ct. County of Orange, 2019, No. 19NM00112). The court placed Respondent on 3 years of probation, ordered her pay fines and restitution, with terms and conditions. The circumstances surrounding the

1 conviction are that on or about December 19, 2019, officers initiated a traffic stop after observing
2 Respondent's vehicle to be speeding and weaving in traffic. Respondent failed field sobriety
3 tests. Respondent's blood alcohol concentration level measured 0.222 on the first reading and
4 0.212% on the second reading.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Dangerous Use of Alcohol)**

7 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
8 that Respondent used alcoholic beverages to an extent or in a manner as to be dangerous or
9 injurious to himself, another person or to the public. Complainant refers to, and by this reference
10 incorporates, the allegations set forth above in paragraph 10, as though set forth fully.

11 **DISCIPLINARY CONSIDERATIONS**

12 12. In order to determine the degree of discipline, if any to be imposed on Respondent,
13 Complainant alleges the following:

- 14 a. On or about August 25, 2006, Respondent was convicted of one misdemeanor count of
15 violating Vehicle Code section 14601.5 subdivision (a) [driving a motor vehicle when
16 driving privilege is suspended or revoked, with knowledge] in the criminal proceeding
17 entitled *The People of the State of California v. Robert Ontiveros Martins* (Super. Ct.
18 Contra Costa County, 2006, No. 03,222135,6,001). The court sentenced Respondent to
19 serve 5 days in jail and placed him on 1 year of probation, with terms and conditions to
20 run concurrent with case no. 03,212923,7,001. The circumstances surrounding the
21 conviction are that on or about June 25, 2006, Respondent drove a motor vehicle upon a
22 highway when his driving privilege was suspended or revoked and with knowledge of
23 the suspension or revocation.
- 24 b. On or about June 9, 2004, Respondent was convicted of one misdemeanor count of
25 violating Vehicle Code section 23103, subdivision (a) [reckless driving: highway] in the
26 criminal proceeding entitled *The People of the State of California v. Robert Ontiveros*
27 *Martins* (Super. Ct. Contra Costa County, 2004, No. 03,212923,7,001). The court
28 placed Respondent on 3 years of probation, ordered him to pay fines and restitution,

1 with terms and conditions to run concurrent with case no. 03,222135,6,001. The
2 circumstances surrounding the conviction are that on or about April 5, 2004,
3 Respondent drove a motor vehicle upon a highway in a willful or wanton disregard for
4 the safety of persons or property.

5 **PRAYER**

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

8 1. Revoking or suspending Pharmacist License Number RPH 69891, issued to Robert
9 Ontiveros Martins;

10 2. Ordering Robert Ontiveros Martins to pay the Board of Pharmacy the reasonable
11 costs of the investigation and enforcement of this case, pursuant to Business and Professions
12 Code section 125.3; and,

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

14
15 DATED: October 31, 2019



16 ANNE SODERGREN
17 Interim Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

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