

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

In the Matter of the Accusation Against:

**VT PHARMACY, INC., dba
VICTORY TAMPA MEDICAL PHARMACY, INC.,
Pharmacy Permit No. PHY 22006,**

and

**ROBERT A. FEILES,
Original Pharmacist License No. RPH 24131,**

Respondents.

Agency Case No. 6952

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 2, 2022.

It is so ORDERED on January 3, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is written in a cursive style with a large, sweeping initial "S".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
4 State Bar No. 196882
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6293
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:
13 **VT PHARMACY, INC. DBA VICTORY**
14 **TAMPA MEDICAL PHARMACY,**
15 **ROBERT A. FEILES, SUSAN E. FEILES**
16 **19300 Vanowen St.**
17 **Reseda, CA 91335**

18 **Permit No. PHY 22006,**
19 **and**
20 **ROBERT A. FEILES**
21 **12165 Viewcrest Rd**
22 **Studio City, CA 91604**

23 **Pharmacist License No. RPH 24131**
24
25 Respondents.

Case No. 6952
OAH No. 2021060162
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
ROBERT A. FEILES**

26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
27 entitled proceedings that the following matters are true:
28

1 **PARTIES**

2 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
3 (Board). She brought this action solely in her official capacity and is represented in this matter by
4 Rob Bonta, Attorney General of the State of California, by Leslie A. Walden, Deputy Attorney
5 General.

6 2. Respondent Robert A. Feiles (Respondent) is represented in this proceeding by
7 attorney Patric Hooper, whose address is: 1875 Century Park East, Suite 1600, Los Angeles, CA
8 90067-2799.

9 3. On or about August 13, 1965, the Board of Pharmacy issued Pharmacist License
10 Number RPH 24131 to Respondent. The Pharmacist License was in full force and effect at all
11 times relevant to the charges brought herein and will expire on May 31, 2022, unless renewed.

12 **JURISDICTION**

13 4. Accusation No. 6952 was filed before the Board against Respondent on January 19,
14 2021. The Accusation and all other statutorily required documents were properly served on
15 Respondent. Respondent timely filed his Notice of Defense contesting the Accusation.
16 Thereafter, First Amended Accusation No. 6952 was filed before the Board and properly served
17 on Respondent on October 14, 2021.

18 5. A copy of the First Amended Accusation No. 6952 is attached as Exhibit A and
19 incorporated by reference.

20 **ADVISEMENT AND WAIVERS**

21 6. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in the First Amended Accusation No. 6952. Respondent has also
23 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
24 Settlement and Disciplinary Order.

25 7. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
27 cross-examine the witnesses against him; the right to present evidence and to testify on his own
28 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the

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

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

6 **CULPABILITY**

7 9. Respondent understands and agrees that the charges and allegations in First Amended
8 Accusation No. 6952, if proven at a hearing, constitute cause for imposing discipline upon his
9 Pharmacist License.

10 10. For the purpose of resolving the First Amended Accusation without the expense and
11 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
12 establish a factual basis for the charges in the First Amended Accusation, and that Respondent
13 hereby gives up his right to contest those charges.

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

16 **CONTINGENCY**

17 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
18 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
19 communicate directly with the Board regarding this stipulation and settlement, without notice to
20 or participation by Respondent or its counsel. By signing the stipulation, Respondent understands
21 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the
22 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
23 Decision and Order, the Stipulated Settlement and Disciplinary Order as to Respondent Robert A.
24 Feiles shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
25 action between the parties, and the Board shall not be disqualified from further action by having
26 considered this matter.

27 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
28 copies of this Stipulated Settlement and Disciplinary Order as to Respondent Robert A. Feiles,

1 including PDF and facsimile signatures thereto, shall have the same force and effect as the
2 originals.

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

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

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Pharmacist License Number RPH 24131 issued to
15 Respondent Robert A. Feiles is revoked. However, the revocation is stayed and Respondent is
16 placed on probation for four (4) years on the following terms and conditions:

17 1. **Obey All Laws**

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

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

- 21 an arrest or issuance of a criminal complaint for violation of any provision of the
- 22 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 23 substances laws
- 24 a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
- 25 criminal proceeding to any criminal complaint, information or indictment
- 26 a conviction of any crime
- 27 the filing of a disciplinary pleading, issuance of a citation, or initiation of another
- 28 administrative action filed by any state or federal agency which involves

1 Respondent's license or which is related to the practice of pharmacy or the
2 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
3 device or controlled substance.

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

5 **2. Report to the Board**

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

10 Failure to submit timely reports in a form as directed shall be considered a violation of
11 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
12 total period of probation. Moreover, if the final probation report is not made as directed,
13 probation shall be automatically extended until such time as the final report is made and accepted
14 by the Board.

15 **3. Interview with the Board**

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

21 **4. Cooperate with Board Staff**

22 Respondent shall timely cooperate with the Board's inspection program and with the
23 Board's monitoring and investigation of Respondent's compliance with the terms and conditions
24 of Entity probation, including but not limited to: timely responses to requests for information by
25 Board staff; timely compliance with directives from Board staff regarding requirements of any
26 term or condition of probation; and timely completion of documentation pertaining to a term or
27 condition of probation. Failure to timely cooperate shall be considered a violation of probation.
28

1 **5. Continuing Education**

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

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

5 During the period of probation, Respondent shall notify all present and prospective
6 employers of the decision in Case Number 6952 and the terms, conditions and restrictions
7 imposed on Respondent by the decision, as follows:

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

19 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
20 Respondent undertaking any new employment, Respondent shall cause (a) Entity direct
21 supervisor, (b) Entity pharmacist-in-charge, designated representative-in-charge, responsible
22 manager, or other compliance supervisor, and (c) the owner or owner representative of Entity
23 employer, to report to the Board in writing acknowledging that the listed individual(s) has/have
24 read the decision in case number 6952, and terms and conditions imposed thereby. If one person
25 serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It
26 shall be the Respondent’s responsibility to ensure that these acknowledgment(s) are timely
27 submitted to the Board. In the event of a change in the person(s) serving the role(s) described in
28 (a), (b), or (c) during the term of probation, Respondent shall cause the person(s) taking over the

1 role(s) to report to the Board in writing within fifteen (15) days of the change acknowledging that
2 he or she has read the decision in case number 6952, and the terms and conditions imposed
3 thereby.

4 If Respondent works for or is employed by or through an employment service, Respondent
5 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board
6 of the decision in case number 6952, and the terms and conditions imposed thereby in advance of
7 Respondent commencing work at such licensed entity. A record of this notification must be
8 provided to the Board upon request.

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

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

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

22 **7. Notification of Change in Name, Address, or Phone Number**

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

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

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1 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

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

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7 **9. Reimbursement of Board Costs**

8 As a condition precedent to successful completion of probation, Respondent shall pay to the
9 Board its costs of investigation and prosecution in the amount of \$11,530. Respondent shall be
10 permitted to pay these costs in a payment plan approved by the Board or its designee, so long as
11 full payment is completed no later than one (1) year prior to the end date of probation.

12 **10. Probation Monitoring Costs**

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

17 **11. Status of License**

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

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

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

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

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

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

17 Except during periods of suspension, Respondent shall, at all times while on probation, be
18 employed as a Pharmacist in California for a minimum of eighty (80) hours per calendar month.
19 Any month during which this minimum is not met shall extend the period of probation by one
20 month. During any such period of insufficient employment, Respondent must nonetheless
21 comply with all terms and conditions of probation, unless Respondent receives a waiver in
22 writing from the Board or its designee.

23 If Respondent does not practice as a Pharmacist in California for the minimum number of
24 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
25 Board in writing within ten (10) days of the conclusion of that calendar month. This notification
26 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
27 interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume
28 practice at the required level. Respondent shall further notify the Board in writing within ten (10)

1 days following the next calendar month during which Respondent practices as a Pharmacist in
2 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
3 considered a violation of probation.

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

8 **14. Violation of Probation**

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

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

22 **15. Completion of Probation**

23 Upon written notice by the Board or its designee indicating successful completion of
24 probation, Respondent's license will be fully restored.
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16. Remedial Education

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Within thirty (30) days of the effective date of this decision, Respondent shall submit to the Board or its designee, for prior approval, an appropriate program of remedial education related to prescription drug abuse prevention and drug security. The program of remedial education shall consist of at least ten (10) hours per year at Respondent's own expense. Fifty (50) percent of this course work must be completed live. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

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

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

17. Ethics Course

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

18. **No Ownership or Management of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, nor 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.

19. **Board's One-Day Training Program**

Within the first year of probation, respondent shall enroll in the board's one-day, six (6) hour, training program, "Preventing Prescription Drug Abuse and Drug Diversion," at respondent's expense. Respondent shall provide proof of enrollment upon request. Within thirty (30) days of completion, respondent shall submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll in the training program, to initiate the training program during the first year of probation, to successfully complete it before the end of the second year of probation, or to timely submit proof of completion to the board or its designee, shall be considered a violation of probation.

ACCEPTANCE

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

DATED: Oct. 26, 2021 Robert Feiles

ROBERT A. FEILES
Respondent

18. **No Ownership or Management of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, nor 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.

19. **Board’s One-Day Training Program**

Within the first year of probation, respondent shall enroll in the board’s one-day, six (6) hour, training program, “Preventing Prescription Drug Abuse and Drug Diversion,” at respondent’s expense. Respondent shall provide proof of enrollment upon request. Within thirty (30) days of completion, respondent shall submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll in the training program, to initiate the training program during the first year of probation, to successfully complete it before the end of the second year of probation, or to timely submit proof of completion to the board or its designee, shall be considered a violation of probation.

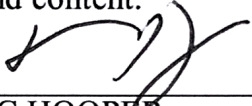
ACCEPTANCE

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

DATED: _____

ROBERT A. FEILES
Respondent

1 I have read and fully discussed with Respondent Robert A. Feiles, the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order as to
3 Respondent Robert Feiles. I approve its form and content.

4 DATED: Oct 25, 2021 
5 PATRIC HOOPER
6 Attorney for Respondent

7
8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order as to Respondent Robert Feiles
10 is hereby respectfully submitted for consideration by the Board of Pharmacy.

11 DATED: 10/26/21

12 Respectfully submitted,
13 ROB BONTA
14 Attorney General of California
15 THOMAS L. RINALDI
16 Supervising Deputy Attorney General

17 *Leslie Walden*
18 LESLIE A. WALDEN
19 Deputy Attorney General
20 Attorneys for Complainant

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28

1 I have read and fully discussed with Respondent Robert A. Feiles, the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order as to
3 Respondent Robert Feiles. I approve its form and content.

4 DATED: _____ PATRIC HOOPER
5 *Attorney for Respondent*

6

7

8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order as to Respondent Robert Feiles
10 is hereby respectfully submitted for consideration by the Board of Pharmacy.

11

12 DATED: _____ Respectfully submitted,
13 ROB BONTA
14 Attorney General of California
15 THOMAS L. RINALDI
16 Supervising Deputy Attorney General

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Exhibit A

First Amended Accusation No. 6952

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
4 State Bar No. 196882
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6293
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 6952

13 **VT PHARMACY, INC. DBA VICTORY**
14 **TAMPA MEDICAL PHARMACY,**
15 **ROBERT A. FEILES, SUSAN E. FEILES**
19300 Vanowen St.
Reseda, CA 91335

FIRST AMENDED ACCUSATION

16 **Permit No. PHY 22006,**

17 **and**

18 **ROBERT A. FEILES**
19 **12165 Viewcrest Rd**
Studio City, CA 91604

20 **Pharmacist License No. RPH 24131**

21 Respondents.

22
23 **PARTIES**

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

27 2. On or about July 1, 1981, the Board of Pharmacy issued Permit Number PHY 22006
28 to VT Pharmacy, Inc. dba Victory Tampa Medical Pharmacy, Robert A. Feiles, Susan E. Feiles

1 (Respondents). The Permit was cancelled on January 3, 2020 due to a discontinuance of business
2 effective May 28, 2019.

3 3. On or about August 13, 1965, the Board of Pharmacy issued Pharmacist License
4 Number RPH 24131 to Robert A. Feiles. The Pharmacist License was in full force and effect at
5 all times relevant to the charges brought herein and will expire on May 31, 2022, unless renewed.

6 **JURISDICTION**

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

10 5. Section 22 of the Code states:

11 “Board” as used in any provisions of this code, refers to the board in which the
12 administration of the provision is vested, and unless otherwise expressly provided, shall include
13 “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”
14 “program,” and “agency.”

15 6. Section 4300.1 of the Code states:

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

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

25 8. Section 4307 of the Code states in pertinent part:

26 “(a) Any person who has been denied a license or whose license has been revoked or is
27 under suspension, or who has failed to renew his or her license while it was under suspension, or
28 who has been a manager, administrator, owner, member, officer, director, associate, partner, or

1 any other person with management or control of any partnership, corporation, trust, firm, or
2 association whose application for a license has been denied or revoked, is under suspension or has
3 been placed on probation, and while acting as the manager, administrator, owner, member,
4 officer, director, associate, partner, or any other person with management or control had
5 knowledge of or knowingly participated in any conduct for which the license was denied,
6 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
7 administrator, owner, member, officer, director, associate, partner, or in any other position with
8 management or control of a licensee as follows:

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

11 (2) Where the license is denied or revoked, the prohibition shall continue until the license
12 is issued or reinstated.

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

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

24 **STATUTORY PROVISIONS**

25 5. Section 490 states, in pertinent part:

26 "(a) In addition to any other action that a board is permitted to take against a licensee, a
27 board may suspend or revoke a license on the ground that the licensee has been convicted of a
28

1 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
2 or profession for which the license was issued.

3 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
4 discipline a licensee for conviction of a crime that is independent of the authority granted under
5 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
6 of the business or profession for which the licensee's license was issued.

7 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
8 conviction following a plea of nolo contendere. Any action that a board is permitted to take
9 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
10 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
11 made suspending the imposition of sentence, irrespective of a subsequent order under the
12 provisions of Section 1203.4 of the Penal Code. . . ."

13 9. Section 4022 of the Code states

14 Dangerous drug or dangerous device means any drug or device unsafe for self-use in
15 humans or animals, and includes the following:

16 (a) Any drug that bears the legend: Caution: federal law prohibits dispensing without
17 prescription, Rx only, or words of similar import.

18 (b) Any device that bears the statement: Caution: federal law restricts this device to sale by
19 or on the order of a _____, Rx only, or words of similar import, the blank to be filled in
20 with the designation of the practitioner licensed to use or order use of the device.

21 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
22 prescription or furnished pursuant to Section 4006.

23 10. Section 4301 of the Code states:

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

27 . . .

1 (d) The clearly excessive furnishing of controlled substances in violation of subdivision (a)
2 of Section 11153 of the Health and Safety Code .

3 ...

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

6

7 "(l) The conviction of a crime substantially related to the qualifications, functions, and
8 duties of a licensee under this chapter. . . ."

9 11. Section 4306.5 of the Code states in part,

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

11 (a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or
12 her education, training, or experience as a pharmacist, whether or not the act or omission arises in
13 the course of the practice of pharmacy or the ownership, management, administration, or
14 operation of a pharmacy or other entity licensed by the Board.

15

16 12. Health and Safety Code section 11153 provides:

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

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REGULATORY PROVISIONS

13. Section 1714 of the title 16 of the California Code of Regulations states:

...

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

...

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

....

14. Section 1761 of title 16 of the California Code of Regulations states:

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

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

15. Section 1770 of title 16 of the California Code of Regulations 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."

1 **COST RECOVERY**

2 16. Section 125.3 of the Code states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **DEFINITIONS**

7 17. Roxicodone 30mg, the brand name for oxycodone 30 mg, is a dangerous drug
8 pursuant to Business and Professions Code section 4022, and is a Schedule II Controlled
9 Substance pursuant to Health and Safety Code section 11055 subdivision (b)(1)(M). It is
10 commonly used to treat pain.

11 18. Xanax 2 mg, the brand name for Alprazolam 2 mg, is a dangerous drug pursuant to
12 Business and Professions Code section 4022, and is a Schedule IV Controlled Substance pursuant
13 to Health and Safety Code section 11057 subdivision (d)(1). It is commonly used to treat anxiety.

14 19. Norco 10 mg/325 mg, the brand name for hydrocodone/acetaminophen 10 mg/325
15 mg, is a dangerous drug pursuant to Business and Professions Code section 4022, and is a
16 Schedule II Controlled Substance pursuant to title 21 of the Code of Federal Regulations section
17 1308.12(b)(1)(vi) and title 16 of Health and Safety Code section 11055(b)(1)(I)(ii). It is
18 commonly used to treat pain.

19 20. Phenergan/Codeine Syrup 10 mg- 6.25 mg/5 mL, the brand name for promethazine/
20 codeine syrup 10 mg- 6.25 mg/5 mL, is a dangerous drug pursuant to Business and Professions
21 Code section 4022, and is a Schedule V Controlled Substance pursuant to Health and Safety Code
22 section 11058 subdivision (c)(1). It is commonly used as a cough suppressant.

23 **FACTUAL ALLEGATIONS**

24 21. In or about October 2018, the Board initiated an investigation of Respondent VT
25 Pharmacy, Inc. dba Victory Tampa Medical Pharmacy, Robert A. Feiles, PIC, Susan E. Feiles
26 (Respondent Victory) and Robert A. Feiles (Respondent Feiles) following a report of suspicious
27 ordering of controlled substances from Amerisource Bergen and an internal evaluation of the
28 pharmacy's purchasing and dispensing of controlled substances. After accessing data from

1 Controlled Substance Utilization Review and Evaluation System¹ (CURES), an investigation and
2 audit determined Respondent Victory and Respondent Feiles could not account for significant
3 shortages of oxycodone 30 mg, alprazolam 2 mg, and promethazine/codeine syrup. Additionally,
4 the investigation determined Respondent Victory and Respondent Feiles failed to fulfill their duty
5 of corresponding responsibility when dispensing prescriptions written by Dr. JK².

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Operational Standards and Security against VT Pharmacy, Inc. dba Victory Tampa**
8 **Medical Pharmacy, Robert A. Feiles, PIC, Susan E. Feiles)**

9 22. Respondent Victory is subject to disciplinary action under title 16 of the California
10 Code of Regulations section 1714 subdivision (b) in that it was required to maintain its facilities,
11 space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured
12 and distributed. Respondent Victory was required to be of sufficient size and have an
13 unobstructed area to accommodate the safe practice of pharmacy. Respondent Victory failed to
14 comply. Specifically, an audit of oxycodone 30 mg tablets, promethazine/codeine syrup, and
15 alprazolam 2 mg revealed that from the end of business on or about July 12, 2017 to an
16 inspection on or about February 4, 2019, the Respondent could not account for the following
17 inventory shortages:

- 18 a) 9,577 oxycodone 30 mg tablets;
19 b) 10,598 mL promethazine/codeine syrup; and
20 c) 16,759 alprazolam 2 mg tablets.

21 23. Additional circumstances surrounding this violation are set forth in paragraph 21,
22 above, and are incorporated herein as though set forth in full.

23 **SECOND CAUSE FOR DISCIPLINE**

24 ¹ Controlled Substance Utilization Review and Evaluation System (CURES) is
25 California's Prescription Drug Monitoring Program (PDMP). Pharmacies in California are
26 required to report all filled prescriptions for Schedule II-IV controlled substances to the database
27 every week. The data is collected statewide and can be used by healthcare professionals to
28 evaluate and determine whether their patients are utilizing controlled substances correctly, or if a
patient has used multiple prescribers and multiple pharmacies to fill controlled substance
prescriptions.

² Potential witness initials are used in lieu of real names in order to protect the privacy
interest of those individuals.

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THIRD CAUSE FOR DISCIPLINE

(Operational Standard and Security against Robert A. Feiles)

26. Respondent Feiles as the Pharmacist in Charge of Respondent Victory is subject to disciplinary action under title 16 of the California Code of Regulations section 1714 subdivision (b) in that it was required to maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. Respondent Victory was required to be of sufficient size and have an unobstructed area to accommodate the safe practice of pharmacy. Respondent Feiles is also in violation of section 1714, subdivision (d) as the pharmacist in charge, he was responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Respondent Feiles failed to comply. Specifically, an audit of oxycodone 30 mg tablets, promethazine/codeine syrup, and alprazolam 2 mg revealed that from the end of business on or about July 12, 2017 to an inspection on or about February 4, 2019, the following inventory shortages:

- a) 9,577 oxycodone 30 mg tablets;
- b) 10,598 mL promethazine/codeine syrup; and
- c) 16,759 alprazolam 2 mg tablets.

27. Additional circumstances surrounding this violation are set forth in paragraph 21, above, and are incorporated herein as though set forth in full.

FOURTH CAUSE FOR DISCIPLINE

(Corresponding Responsibility against Robert A. Feiles)

28. Respondent Feiles, while acting as Pharmacist in charge at Respondent Victory is subject to disciplinary action under title 16 of the California Code of Regulations, sections 11153 subdivision (a) and 1761 subdivisions (a) and (b) in that Respondent Victory dispensed 189 controlled substance prescriptions under the prescribing authority of Dr. JK including 173 prescriptions for a total of 14,667 tablets of oxycodone 30 mg. Respondent Victory dispensed these prescriptions in the presence of significant factors of irregularity suggesting the

1 prescriptions were not legitimately written. Objective factors indicating these prescriptions were
2 not written for legitimate medical purposes included the following:

3 a) Dr. JK's prescribing record at Respondent Victory was unusually limited with
4 oxycodone 30 mg accounting for over 44% of Dr. JK's prescriptions.

5 b) While Dr. JK's licensing details page from the California Medical Board's website
6 indicated he was a general practitioner, his limited prescribing profile lacked medications for
7 conditions commonly treated by general practitioners such as diabetes, high blood pressure, high
8 cholesterol, asthma or respiratory infections.

9 c) Dr. JK prescribed controlled substances exclusively in the highest available strength
10 including 173 prescriptions for oxycodone 30 mg tablets and no prescriptions for any lower
11 strength.

12 d) All of Dr. JK's patients received at least one prescription for a commonly abused
13 controlled substance. Twenty-one of twenty-six total patients received oxycodone 30 mg tablets
14 from Dr. JK.

15 e) There were numerous instances when Respondent Victory filled multiple
16 prescriptions from Dr. JK in the same day, sometimes assigning the prescriptions consecutive or
17 nearly consecutive prescription numbers.

18 29. Additional circumstances surrounding this violation are set forth in paragraph 21,
19 above, and are incorporated herein as though set forth in full.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Conviction of a Substantially Related Crime)**

22 30. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
23 (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of
24 unprofessional conduct, in that Respondent was convicted of a substantially related crime, as
25 follows:

26 a. On or about January 17, 2020, after nolo contendere, Respondent was convicted of
27 one misdemeanor count of violating Penal Code section 153 subdivision (3) [compounding or
28 concealing a crime] in the criminal proceeding entitled *The People of the State of California v.*

1 *Robert Feiles* (Los Angeles Superior Court, Case No. BA43543). The Court suspended the
2 sentence, placed Respondent on summary probation for six (6) months, and ordered him to pay
3 restitution in the amount of \$24,498.83 to the victim.

4 **OTHER MATTERS**

5 31. Pursuant to Code section 4307, if discipline is imposed on PHY 22006, issued to
6 Respondent Victory, while Respondent Feiles had been an officer and owner and had knowledge
7 of or knowingly participated in any conduct for which the licensee was disciplined, Respondent
8 Feiles shall be prohibited from serving as a manager, administrator, owner, member, officer,
9 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 22006
10 is placed on probation or until Pharmacy Permit Number PHY 22006 is reinstated if it is revoked.

11 **PRAYER**

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

- 14 1. Revoking or suspending Permit Number PHY 22006, issued to VT Pharmacy, Inc.
15 dba Victory Tampa Medical Pharmacy, Robert A. Feiles, Susan E. Feiles;
- 16 2. Revoking or suspending Pharmacist License Number RPH 24131, issued to Robert A.
17 Feiles;
- 18 3. Prohibiting Respondent Robert A. Feiles from serving as a manager, administrator,
19 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
20 Permit Number PHY 22006 is placed on probation or until Pharmacy Permit Number PHY 22006
21 is reinstated if it is revoked.
- 22 4. Prohibiting Respondent Susan E. Feiles from serving as a manager, administrator,
23 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
24 Permit Number PHY 22006 is placed on probation or until Pharmacy Permit Number PHY 22006
25 is reinstated if it is revoked.
- 26 5. Ordering VT Pharmacy, Inc. dba Victory Tampa Medical Pharmacy, Robert A.
27 Feiles, Susan E. Feiles; and Robert A. Feiles to pay the Board of Pharmacy the reasonable costs
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of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 10/11/2021

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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