

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

In the Matter of the Accusation Against:

TODD DANTZLER ALLEN, Respondent

Pharmacist License No. RPH 56152

Agency Case No. 7057

OAH No. 2022030060

DECISION AND ORDER

The attached Stipulated Surrender of License 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 1, 2023.

It is so ORDERED on January 30, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

14 **TODD DANTZLER ALLEN**
2514 Jamacha Road #508-68
15 El Cajon, CA 92019
16 **Pharmacist License No. RPH 56152**

17 Respondent.

Case No. 7057

OAH No. 2022030060

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

20 **PARTIES**

21 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Rob Bonta, Attorney General of the State of California, by Alvaro Mejia, Deputy Attorney
24 General.

25 2. Respondent Todd Dantzer Allen is represented in this proceeding by attorney Irean
26 Zhang Swan, whose address is: Klinedinst PC, 501 West Broadway, Suite 600, San Diego,
27 California 92101-3584.

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1 basis for the charges in the Accusation and that those charges constitute cause for discipline.
2 Respondent hereby gives up his right to contest that cause for discipline exists based on those
3 charges.

4 10. Respondent understands that by signing this stipulation he enables the Board to issue
5 an order accepting the surrender of his Pharmacist License without further process.

6 **CONTINGENCY**

7 11. This stipulation shall be subject to approval by the Board. Respondent understands
8 and agrees that counsel for Complainant and the staff of the Board may communicate directly
9 with the Board regarding this stipulation and surrender, without notice to or participation by
10 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
11 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
12 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
13 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
14 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
15 be disqualified from further action by having considered this matter.

16 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
17 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
18 thereto, shall have the same force and effect as the originals.

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

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

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1 **ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License Number RPH 56152, issued to
3 Respondent Todd Dantzler Allen, is surrendered and accepted by the Board.

4 1. The surrender of Respondent's Pharmacist License and the acceptance of the
5 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
6 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
7 license history with the Board.

8 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
9 effective date of the Board's Decision and Order.

10 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
11 issued, his wall certificate on or before the effective date of the Decision and Order.

12 4. Respondent may only seek a new or reinstated license from the Board by way of a
13 new application for licensure. Respondent understands and agrees that if he ever files an
14 application for licensure or a petition for reinstatement in the State of California, the Board shall
15 treat it as a new application for licensure and Respondent shall not be eligible to petition for
16 reinstatement of licensure.

17 5. Respondent may not apply for any license, permit, or registration from the Board for
18 three years from the effective date of the Decision and Order. Respondent stipulates that should
19 he apply for any license from the Board on or after the effective date of this Decision and Order,
20 all of the charges and allegations set forth in Accusation Number 7057 shall be deemed to be true,
21 correct and admitted by Respondent when the Board determines whether to grant or deny the
22 application. Respondent shall satisfy all requirements applicable to that license as of the date the
23 application is submitted to the Board, including, but not limited to, taking and passing licensing
24 examination(s) as well as fulfilling any education or experience requirements prior to the issuance
25 of a new license.

26 6. Respondent is required to report this surrender as disciplinary action.

27 7. Respondent shall pay the agency its costs of investigation and enforcement in the
28 amount of \$28,859.00 prior to reapplying for a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Irean Zhang Swan. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____
TODD DANTZLER ALLEN
Respondent

I have read and fully discussed with Respondent Todd Dantzler Allen the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____
IREAN ZHANG SWAN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

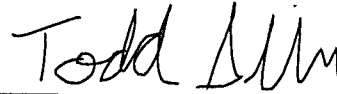
DATED: _____
Respectfully submitted,
ROB BONTA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General

ALVARO MEJIA
Deputy Attorney General
Attorneys for Complainant

1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney Irean Zhang Swan. I understand the stipulation and the effect it will
4 have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Pharmacy.

7
8 DATED: 11/9/22



9 TODD DANTZLER ALLEN
Respondent

10 I have read and fully discussed with Respondent Todd Dantzler Allen the terms and
11 conditions and other matters contained in this Stipulated Surrender of License and Order. I
12 approve its form and content.

13
14 DATED: November 9, 2022



15 IREAN ZHANG SWAN
Attorney for Respondent

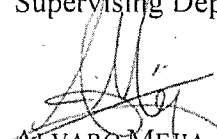
16
17 ENDORSEMENT

18 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
19 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

20
21 DATED: November 10, 2022

Respectfully submitted,

22 ROB BONTA
Attorney General of California
23 MARICHELE S. TAHIMIC
Supervising Deputy Attorney General



24
25
26 ALVARO MEJIA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 7057

1 XAVIER BECERRA
Attorney General of California
2 MARICHELLE TAHIMIC
Supervising Deputy Attorney General
3 ALVARO MEJIA
Deputy Attorney General
4 State Bar No. 216956
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7057

14 **TODD DANTZLER ALLEN**
15 **2514 Jamacha Road #502-68**
El Cajon, CA 92019

ACCUSATION

16 **Pharmacist License Number RPH 56152**

17 Respondent.

18
19 **PARTIES**

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

22 2. On or about September 17, 2004, the Board issued Pharmacist License Number
23 RPH 56152 to Todd Dantzler Allen (Respondent). The Pharmacist License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on September 30, 2022,
25 unless renewed.

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JURISDICTION

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

4. Code section 4011 states, in pertinent part, that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Code section 4300 states, in pertinent part, that every license issued may be suspended or revoked.

6. Code section 4300.1 states:

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

STATUTORY PROVISIONS

7. Code section 4301 states, in pertinent part:

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

...

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

...

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

...

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

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8. Section 4021 of the Code states:

“Controlled substance” means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

9. Section 4022 of the Code states, in pertinent part:

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

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

...

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

10. Code section 4059 states, in pertinent part:

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

11. Section 4060 of the Code states, in pertinent part:

No person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

12. Section 4306.5 of the Code states, in pertinent part:

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

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

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

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1 13. Health and Safety Code section 11170 states, in pertinent part:

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

3 14. Health and Safety Code section 11173 states, in pertinent part:

4 (a) No person shall obtain or attempt to obtain controlled substances, or procure
5 or attempt to procure the administration of controlled substances, (a) by fraud, deceit,
6 misrepresentation, or subterfuge; or (2) by concealment of a material fact.

6 **REGULATORY PROVISIONS**

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

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

12 **COST RECOVERY**

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

17 **DRUGS**

18 17. Roxicodone is a brand name of Oxycodone, and is used to treat severe pain. It is a
19 Schedule II controlled substances pursuant to Health and Safety Code section 11055, and a
20 dangerous drug pursuant to Business and Professions Code section 4022.

21 **FACTUAL ALLEGATIONS**

22 18. On or about August 18, 2020, the Board received a *DEA-106 Report of Theft or Loss*
23 *of Controlled Substances* from Rite Aid Pharmacy reporting the loss of several controlled
24 substance medications. An internal investigation performed at Rite Aid revealed a Pharmacist,
25 later identified as Respondent, had diverted medications by taking tablets from a duplicate
26 prescription he created, which had already been dispensed to the patient. The subsequent Board
27 investigation substantiated the information from Rite Aid and determined that violations of
28 pharmacy law occurred.

1 19. Specifically, on or about May 11, 2020, while working as a Pharmacist at Rite Aid
2 Pharmacy #5644, Respondent copied a previously dispensed prescription (RX #2612336) to
3 create a new prescription (RX #2613673) for Patient RB for oxycodone 15mg #30. Respondent
4 typed and filled the prescription and marked the prescription as sold, as documented by the
5 pharmacy computer system. Screen-prints of the hard copy prescription used to create RX
6 #2613673 show that the document was the same one used to create RX #2613336. Respondent
7 worked by himself during the overnight shift at this Rite Aid. Respondent told Rite Aid he
8 believed the patient was shorted and needed the medication, but then claimed he made an error
9 and allegedly left the medication for day-staff to correct the billing issue the next morning.

10 20. At the time in question, video surveillance of the incident shows Respondent with a
11 vial of medication, consistent with the oxycodone being dispensed, in his left hand as he turned
12 and walked down an aisle of the pharmacy. With his back to the camera, Respondent is shown
13 placing both hands in front of himself, near his waist, and appears to conceal the oxycodone
14 underneath his smock. The video then shows Respondent bending down and retrieving a small
15 box of medication (Oseltamivir) from a lower shelf. When Respondent then turns toward the
16 camera, he is no longer holding the vial of oxycodone in either hand. Instead, the video shows
17 Respondent holding a small box of Oseltamivir, yet no prescription for Oseltamivir was filled
18 during that shift. When inspecting the pharmacy, Rite Aid staff found the box of Oseltamivir in
19 the area Respondent approached in the video.

20 21. The vial of oxycodone could not be located by Rite Aid staff the next morning, or any
21 time thereafter, despite Respondent's claims that he left the vial of oxycodone for staff to correct
22 the billing. Respondent filled the prescription for oxycodone in the middle of the night on May
23 11, 2020 and immediately marked it "sold," yet the patient did not pick up his other prescriptions
24 until May 15, 2020, four days later.

25 22. Before filling the alleged duplicate prescription for a Schedule II controlled
26 substance, Respondent did not conduct an inventory check or any other investigation to determine
27 if the patient had actually been shorted. Even if the patient had been shorted, Respondent did not
28 provide a reasonable explanation for why he created and filled an entirely new prescription,

1 instead of providing the patient with only the amount he was allegedly shorted. Instead,
2 Respondent changed the directions on the fraudulent prescription to state not to exceed 3/day
3 instead of 2/day, but did not change the actual quantity dispensed. By duplicating the previous
4 prescription, Respondent made it appear that the patient had received a second prescription from
5 his physician rather than being provided a shorted amount by Rite Aid, and therefore tried to
6 make it appear that there was a legitimate reason for dispensing another 30 tablets of Oxycodone,
7 which would hide the discrepancy in the inventory.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 23. Respondent's Pharmacist License is subject to disciplinary action in that he engaged
11 in unprofessional conduct. (Bus. & Prof. Code § 4301.) The facts are more fully set forth in
12 paragraphs 18 through 22 above and incorporated herein as though set forth in full.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct: Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

15 24. Respondent's Pharmacist License is subject to disciplinary action in that he engaged
16 in unprofessional conduct when he committed acts involving moral turpitude, dishonesty, fraud,
17 or deceit. (Bus. & Prof. Code § 4301, subd. (f).) The facts are more fully set forth in paragraphs
18 18 through 22 above and incorporated herein as though set forth in full.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unlawful Possession of a Controlled Substance)**

21 25. Respondent's Pharmacist License is subject to disciplinary action in that he possessed
22 controlled substances and dangerous drugs without a prescription. (Bus. & Prof. Code §§ 4059,
23 subd. (a), 4060.) The facts are more fully set forth in paragraphs 18 through 22 above and
24 incorporated herein as though set forth in full.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Obtaining Controlled Substances by Fraud, Deceit or Subterfuge)**

3 26. Respondent's Pharmacist License is subject to disciplinary action in that he obtained
4 controlled substances and dangerous drugs by fraud, deceit or subterfuge, or concealment of a
5 material fact when he stole those drugs from his employer and attempted to conceal his theft by
6 creating a fraudulent prescription. (Health & Safety Code § 11173, subd. (a).) The facts are more
7 fully set forth in paragraphs 18 through 22 above and incorporated herein as though set forth in
8 full.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct: Administering or Furnishing Controlled Substances)**

11 27. Respondent's Pharmacist License is subject to disciplinary action in that he furnished
12 to himself controlled substances and dangerous drugs without a valid prescription. (Bus. & Prof.
13 Code §§ 4301, subd. (j), 4059, Health & Safety Code § 11170.) The facts are more fully set forth
14 in paragraphs 18 through 22 above and incorporated herein as though set forth in full.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Violation of Statutes Regulating Controlled Substances and**
17 **Dangerous Drugs)**

18 28. Respondent's Pharmacist License is subject to disciplinary action in that he engaged
19 in unprofessional conduct when he violated statutes regulating controlled substances and
20 dangerous drugs. (Bus. & Prof. Code §§ 4301, subds. (f), (j), (h) and (o), 4059, 4060, Health &
21 Safety Code §§ 11170, 11173, subd. (a).) The facts are more fully set forth in paragraphs 18
22 through 22 above and incorporated herein as though set forth in full.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct: Misuse of Education; Lack of Professional Judgement)**

25 29. Respondent's Pharmacist License is subject to disciplinary action in that he engaged
26 in unprofessional conduct when he furnished prescription number 2613673 for #30 oxycodone 15
27 mg to himself without a prescription. Furnishing a Schedule II controlled substance to himself
28 without a valid prescription represented an extreme departure from the practice of pharmacy and

1 represented an inappropriate use of his education as a pharmacist and a failure to implement his
2 best professional judgement regarding dispensing controlled substances. (Bus. & Prof. Code §
3 4306.5, subds. (a) and (b).) The facts are more fully set forth in paragraphs 18 through 22 above
4 and incorporated herein as though set forth in full.

5 **PRAYER**

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

- 8 1. Revoking or suspending Pharmacist License Number RPH 56152 issued to Todd
9 Dantzler Allen;
- 10 2. Ordering Todd Dantzler Allen to pay the Board the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 10/3/2021 _____

Signature on File

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