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

In the Matter of the
First Amended Petition to Revoke Probation Against:

TIMOTHY ROBERT WEE,
Respondent

Pharmacist License No. RPH 49478

Agency Case No. 7184

OAH No. 2022040152

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge 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 August 4, 2022.

It is so ORDERED on July 5, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the First Amended Petition to Revoke Probation Against:

TIMOTHY ROBERT WEE, Respondent

Agency Case No. 7184

OAH No. 2022040152

PROPOSED DECISION

Jessica Wall, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on April 25, 2022, from Sacramento, California.

Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, was represented by Jeff Stone, Deputy Attorney General.

Timothy Robert Wee (respondent) was present and represented himself.

Evidence was received, the record closed, and the matter submitted for decision on April 25, 2022.

FACTUAL FINDINGS

License

1. On December 15, 1997, the Board issued respondent Original Pharmacist License Number RPH 49478 (license). The license was in full force and effect during all times relevant to this action and will expire on May 31, 2023, unless renewed or revoked.

Prior Board Discipline

ACCUSATION

2. On March 12, 2018, a former Board Executive Officer filed the Accusation in Case No. 6307 (Accusation) against respondent in her official capacity. The Accusation alleged cause to discipline respondent's license under Business and Professions Code section 4301, subdivisions (h) and (l), based on: (1) a criminal conviction substantially related to the qualifications, functions, or duties of a pharmacist and (2) dangerous use of alcohol. Specifically, on August 7, 2017, in Calaveras County Superior Court, Case No. 17T21247, respondent was convicted on guilty plea of violating Vehicle Code section 23152, subdivision (b) (driving a vehicle with a blood alcohol concentration (BAC) of 0.08 percent or more), a misdemeanor. The court suspended imposition of sentencing and placed respondent on informal probation for 60 months.

3. The conduct underlying respondent's conviction occurred on March 10, 2017. That evening, a Calaveras County Deputy Sheriff received a report about a domestic altercation near the Valley Christian Center in Valley Springs, California. The deputy responded to the scene and found that a female passenger in respondent's

vehicle had a bloody nose, which was red and swollen. The deputy detained respondent, smelled a strong odor of alcohol on respondent's body, and observed respondent had red, watery eyes and difficulty standing. Respondent told the deputy he had two or three glasses of wine earlier in the day and two or three beers with dinner. The deputy arrested respondent after he failed field sobriety tests. Respondent's BAC measured 0.195 percent.

FIRST STIPULATED SETTLEMENT

4. On November 8, 2018, respondent signed a Stipulated Settlement and Disciplinary Order (First Stipulated Settlement), in which he agreed that the Accusation's charges and allegations, if proven at a hearing, constituted cause for imposing discipline on his license. Effective March 7, 2019, the Board revoked respondent's license, but stayed the revocation and placed respondent on probation for four years, with various terms and conditions. Those terms included Probation Condition Nos. 16 (Pharmacists Recovery Program (PRP)); 17 (Drug and Alcohol Testing); 19 (Abstain from Drugs and Alcohol); and 20 (Prescription Coordination and Monitoring of Prescription Use), discussed in further detail below.

PRIOR PETITION TO REVOKE PROBATION

5. On August 26, 2019, complainant filed a Petition to Revoke Probation in Case No. 6769 (Prior Petition) against respondent based on his failure to participate in the PRP. Specifically, the Prior Petition alleged respondent did not sign and return the PRP agreement, failed to register and comply with drug and alcohol testing, and did not complete an in-person assessment of his substance abuse. On March 29, 2019, respondent was terminated from the PRP as a public safety risk.

SECOND STIPULATED SETTLEMENT

6. On August 6, 2020, respondent signed a Stipulated Settlement and Disciplinary Order (Second Stipulated Settlement), in which he agreed that the Prior Petition's charges and allegations, if proven at a hearing, constituted cause for imposing discipline on his license. The Second Stipulated Settlement extended respondent's probation for an additional two years, for a total of six years, with the same terms and conditions as the First Stipulated Settlement. The Board adopted the Second Stipulated Settlement as its decision and order, effective October 15, 2020.

Probation Violations

7. Pursuant to the Second Stipulated Settlement, respondent's probation started March 7, 2019, and is set to terminate on March 7, 2025. On March 13, 2019, respondent met with his probation monitor to review the probation conditions and ask any questions about his commitments. Following that session, respondent signed a statement attesting to the following:

> The terms and conditions of my probation have been fully explained to me by the Board representatives. I hereby acknowledge that I thoroughly understand these terms and conditions as set forth in the disciplinary action and that failure to comply may result in further disciplinary action.

8. James Flores has been a Board inspector for five years and testified about his experience with respondent's probation compliance. In August 2019, Inspector Flores took over respondent's case from a retiring inspector and learned that respondent had been noncompliant with the probationary terms. In fall 2020,

Inspector Flores and respondent met via video conference to review the terms and conditions of respondent's probation.

9. On May 26, 2020, respondent enrolled in the PRP with Maximus. Anne Mireles, Clinical Case Manager at Maximus, submitted a report to the Board regarding respondent's participation in the PRP from May 2020 through October 2020. During that period, respondent had no missed calls or tests. However, he tested positive for alcohol on May 29, 2020, based on his disclosed alcohol use on May 25, 2020. Ms. Mireles's report notes respondent's belief that he did not have a problem with alcohol and lists his sobriety date as June 15, 2020. On May 29, 2020, respondent underwent an initial clinical assessment performed by Maximus staff. His clinical assessor determined respondent was unsafe to practice. Based on respondent's clinical assessment, the Pharmacist Review Committee (PRC) developed a mandatory treatment plan for respondent, which included enrollment in the Kaiser Chemical Dependency Recovery Program (CDRP) and Individual Therapy. The plan required respondent to attend 12-step meetings and a monitored support group. Respondent informed Ms. Mireles that he disliked 12-step meetings, and she approved him to attend Self-Management and Recovery Training (SMART) Recovery meetings instead.

10. During his five months in the PRP program, respondent's compliance was inconsistent. He missed quarterly individual therapy reports for July through September 2020. He failed to attend all the required meetings in July 2020. Respondent did not participate in support group meetings unless prompted by others. His support group facilitator reported respondent was "slightly" able to communicate a comprehensive recovery plan. Additionally, he tested "out of range" on his September 3, 2020 drug and alcohol test, which he attributed to hydrating too much before the test. Maximus scheduled a reassessment of respondent's ability to practice

on November 13, 2020. However, before that date, respondent moved to Indiana. Based on respondent's out-of-state residency, the PRC determined that it could no longer monitor respondent or confirm his ability to practice safely. Accordingly, it terminated respondent's participation in the PRP and classified him as a "Public Risk Status" effective October 29, 2020.

11. On October 29, 2020, respondent emailed Inspector Flores and informed him that he had relocated to Indiana. Respondent understood his residency change would violate probation. Although respondent enrolled in the Indiana Board of Pharmacy's (Indiana Board) Professionals Recovery Program, he recognized that Maximus would not credit his participation in Indiana's program. Respondent emailed Inspector Flores about his desire to put his probation "on hold," because he wanted to avoid being labeled a "public safety risk" and forced to surrender his California license.

12. On December 14, 2020, Board Probation Analyst Autumn Ammann emailed respondent, notifying him that he was in violation of Condition 16 of his probation. On February 22, 2021, Ms. Ammann followed up to inform respondent he was also in violation of Conditions 17 and 20. The Condition 17 violation stemmed from respondent's missed check-in for drug and alcohol screening on January 19, 2021, with a drug testing company in Indiana.[1] Respondent emailed Ms. Ammann that the January 19 check-in "slipped [his] mind" because it was difficult to remember to check-in with both the California and Indiana Boards each day. The Condition 20

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[1] Condition 17 of the Second Stipulated Settlement authorizes respondent to utilize an approved alternate testing vendor during periods of absence from area where the approved vendor provides testing services.

violation occurred when the Board did not receive a fourth-quarter 2020 report from respondent's prescription monitor, which was due on January 10, 2021.

First Amended Petition to Revoke Probation

13. On February 21, 2022, complainant filed the First Amended Petition to Revoke Probation based on respondent's noncompliance with his probationary conditions. Specifically, the Petition alleges that respondent (1) failed to participate in the PRP; (2) failed to comply with random drug testing protocols; and (3) failed to submit a required report by his prescription monitor. Respondent timely filed a Notice of Defense and the matter was set for an evidentiary hearing under Government Code section 11500 et seq.

Respondent's Evidence

14. Respondent earned his Doctor of Pharmacy degree from Butler University and received his Indiana pharmacy license in 1996. He moved to California in 1998 and has moved back and forth between the states twice over the decades. He has primarily worked in retail pharmacies, as well as in a hospital for a brief period. Currently, respondent works as the overnight pharmacist at a CVS pharmacy.

15. In March 2019, respondent completed his initial intake assessment at Maximus, pursuant to the terms of the First Stipulated Settlement. The assessment results determined he was not safe to work as a pharmacist. Respondent felt blindsided by the recommendation that he stop working. He testified that it "was not what [he] signed up for." Instead of continuing with the PRP, respondent spoke with his attorney, who he believed would help him continue practicing while on probation.

16. While out of work in May 2020, respondent decided he had time to complete the Maximus program. For five months, he participated in the PRP, attended support groups, and participated in SMART Recovery. During this period, respondent testified that moving back to Indiana "was always in the back of [his] mind." In October 2020, respondent spontaneously decided to relocate and moved to Kokomo, Indiana within a week. He does not plan to return to California.

17. Respondent understands that the Indiana Board defers to the California Board for licensee probation monitoring and expected the California Board to do the same. The Indiana Board placed his Indiana pharmacy license on probation because it wants him to get his California license reinstated without restrictions. Respondent believes it "looks bad" for the Board to label him a "public safety risk" and does not want to lose his California license, which could have repercussions on his Indiana license.

Analysis

CAUSE TO REVOKE PROBATION

18. Probation Condition No. 14 (Violation of Probation) provides, in relevant part, that "[i]f Respondent violates probation in any respect, the board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed."

19. Probation Condition No. 16 (PRP) provides that respondent must contact the PRP for evaluation, enrollment, and completion of a treatment contract, then begin compliance with drug and alcohol testing protocols within ten days after the effective date of the decisions. It requires respondent to "successfully participate in the PRP" and provides a list of probationary violations. That list includes: "Any report from the

PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s)" and "Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk."

20. Probation Condition No. 17 (Drug and Alcohol Testing) requires respondent to participate in testing for the detection of alcohol and controlled substances. Any failure by respondent to cooperate with the testing vendor (Maximus) is considered a violation of probation. Additionally, respondent must "make daily contact with the testing vendor to determine if a test is required, and if a test is required must submit to testing on the same day." A failure to test as required is "considered a violation of probation and shall result in Respondent being immediately suspended from practice as a pharmacist until notified by the board in writing that he may resume practice."

21. Probation Condition No. 20 (Prescription Coordination and Monitoring of Prescription Use) provides that respondent must submit the name and qualifications of a physician, nurse practitioner, physician assistant, or psychiatrist to the Board for approval, and that person will be responsible to "coordinate and monitor any prescriptions for Respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs." Respondent's monitor "shall report to the board on a quarterly basis for the duration of probation regarding Respondent's compliance with this condition." Any failure to submit timely reports violates respondent's probation.

22. There is no dispute that respondent was terminated from the PRP on October 29, 2020, missed a drug and alcohol testing check-in on January 19, 2021, and failed to have his prescription monitor submit a report by January 10, 2021. Based on these facts, there is cause to revoke respondent's probation under Probation

Conditions 16, 17, and 20. The only issue is whether revocation is appropriate under the circumstances.

APPROPRIATE DISCIPLINE

23. Respondent's overall conduct demonstrates an inability or unwillingness to comply with probationary terms. He refused to participate in the PRP in March 2019, after his initial assessment determined he was not safe to work as a pharmacist. Even after respondent returned to the PRP in May 2020, he disputed the basis for his participation in the program: that he had an issue with alcohol. He tested positive for alcohol consumption on an early test, missed 12-step meetings, failed to submit individual therapy reports, and only participated in support groups when prompted.

24. Exactly two weeks after the Second Stipulated Settlement became effective, respondent relocated to another state, knowing it would violate the probationary terms to which he recently agreed. Respondent failed to advise his clinical care counselor or probation inspector that he was planning to move, telling them only after the fact. Even after respondent's relocation, his compliance with other terms of probation fell short of requirements. He dismissed a missed check-in as merely "slipping [his] mind" and provided no explanation for his missing prescription monitor report. He is unwilling to even temporarily return to California in order to complete terms of his California probation. The sum of respondent's conduct suggests that he does not take the terms of his probation seriously.

25. Additionally, respondent offered no evidence of rehabilitation. He did not admit to having a problem with alcohol or share any insight gained from participating in the SMART Program. Respondent did not offer any character letters or witnesses to support a change in his attitude or acceptance of responsibility since his conviction.

26. Although respondent's alcohol problem has not yet affected his work, the Board need not wait until patient harm occurs before imposing discipline. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 772.) The Board has attempted lesser discipline by placing respondent on probation, twice, without success. In sum, given the number and persistence of probation violations and the scant rehabilitation evidence, revocation is necessary at this time to protect public health, safety, and welfare. Respondent may petition for reinstatement of his license at an appropriate time, upon a record of sustained rehabilitation.

LEGAL CONCLUSIONS

1. In a petition to revoke probation, complainant must show by a preponderance of evidence that cause exists to revoke respondent's probation. (*Sandarg v. Dental Board of California* (2010) 184 Cal.App.4th 1434, 1441). Evidence deemed to preponderate must amount to "substantial evidence." (*Weiser v. Bd. of Retirement* (1984) 152 Cal.App.3d 775, 783.) And to be "substantial," evidence must be reasonable in nature, credible, and of solid value. (*In re Teed's Estate* (1952) 112 Cal.App.2d 638, 644.)

2. Based on the Factual Findings as a whole, and specifically, Factual Findings 18 through 22, respondent violated Probation Condition Nos. 16 (PRP), 17 (Drug and Alcohol Testing), and 20 (Prescription Coordination and Monitoring of Prescription Use) by virtue of his termination in the PRP program, missed drug test check-in, and failure to submit a prescription coordination and monitoring report. Therefore, cause exists to set aside the stay order and impose the stayed discipline of license revocation pursuant to Probation Condition No. 14 (Violation of Probation).

3. Based on the Factual Findings as a whole, and specifically, Factual Findings 23 through 26, revoking respondent's probation and imposing the stayed disciplinary order is appropriate.

ORDER

The Petition to Revoke Probation is GRANTED. The previous stay order is SET ASIDE, and Original Pharmacist License No. RPH 49478 issued to respondent Timothy Robert Wee is REVOKED.

DATE: May 24, 2022

Jessica Wall
Jessica Wall (May 24, 2022 11:51 PDT)

JESSICA WALL

Administrative Law Judge

Office of Administrative Hearings

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

In the Matter of the Petition to Revoke Probation Against: **TIMOTHY ROBERT WEE** 315 E. Walnut St. Kokomo, IN 46901 **Pharmacist License No. RPH 49478** Respondent.	Case No. 7184 FIRST AMENDED PETITION TO REVOKE PROBATION

PARTIES

1. Anne Sodergren ("Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

2. On or about December 15, 1997, the Board issued Pharmacist License Number RPH 49478 to Timothy Robert Wee ("Respondent"). Pharmacist License Number RPH 49478 was in effect at all times relevant to the charges brought herein and will expire on May 31, 2023, unless

renewed. Respondent's Pharmacist License Number RPH 49478 is currently suspended for violating the terms and conditions of probation.

PRIOR DISCIPLINE

3. In a disciplinary action entitled *In the Matter of the Accusation Against Timothy Robert Wee*, Case No. 6307, the Board issued a decision, effective March 7, 2019, in which Respondent's Pharmacist License was revoked. However, the revocation was stayed and Respondent's Pharmacist License was placed on probation for a period of four years with certain terms and conditions. The terms of Respondent's probation included the requirement that Respondent enroll in and successfully complete the California State Board of Pharmacy Diversion Program – the Pharmacists Recovery Program (PRP). A copy of that decision is attached as Exhibit A and is incorporated by reference.

4. Effective March 29, 2019, Respondent was terminated as a public safety risk from the PRP due to Respondent's refusal to comply with PRP program requirements, his 21-year history of alcohol abuse, his report of domestic violence while impaired, and his request that his case with the program be closed.

5. In a disciplinary action titled *In the Matter of Petition to Revoke Probation Against Timothy Robert Wee*, Case No. 6769, the Board issued a decision, effective October 15, 2020, extending his probation term for an additional period of two (2) years (for a total of six years) with certain terms and conditions. A copy of that decision is attached as Exhibit B and is incorporated by reference.

JURISDICTION

6. Business and Professions Code section 4300 states, in pertinent part:

> (a) Every license issued may be suspended or revoked.
>
> . . . .
>
> (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. . . . .
>
> (e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The

action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

7. At all times after the effective date of Respondent's probation, Condition 14 stated:

> If Respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent that probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed. The board or its designee may post a notice of the extended probation period on its website.
>
> If Respondent violates probation in any respect, the board, after giving Respondent notice and an opportunity to be· heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

8. Respondent's probation is subject to revocation, in that he violated probation as set forth below.

FIRST CAUSE TO REVOKE PROBATION

(**Failure to Participate in the Pharmacists Recovery Program**)

9. At all times after the effective date of Respondent's probation, Condition 16 stated, in pertinent part:

> . . . .
>
> Any of the following shall result in the automatic suspension of practice by Respondent and shall be considered a violation of probation:
>
> . . . .
>
> Any report from the PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s); or
>
> Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.
>
> . . . .
>
> Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation. . . .

10. Respondent's probation is subject to revocation for failing to comply with Condition 16 referenced above. Specifically, Respondent must reside in California to participate in the PRP. On October 29, 2020, Respondent notified the Board and the PRP that he relocated to Indiana. Respondent confirmed that he was aware of the PRP requirement that he reside in California, but that his current finances required his out-of-state move. The Pharmacist Review Committee determined that based on Respondent's relocation to Indiana, the Committee could no longer monitor Respondent or confirm that he is safe to practice in California or any other state. Respondent's participation in the PRP was closed as a public risk.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Comply With Random Drug Testing Protocols)

11. At all times after the effective date of Respondent's probation, Condition 17 states, in pertinent part:

> Respondent, at his own expense, shall participate in testing as directed by the board or its designee for the detection of alcohol, controlled substances, and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its designee. All testing must be pursuant to an observed testing protocol, unless Respondent is informed otherwise in writing by the board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the board or its designee.
>
> . . . .
>
> At all times, Respondent shall fully cooperate with the testing vendor, and with the board or its designee, with regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to cooperate timely shall be considered a violation of probation.
>
> Respondent may be required to test on any day, including weekends and holidays. Respondent is required to make daily contact with the testing vendor to determine if a test is required, and if a test is required must submit to testing on the same day.
>
> . . . .
>
> Any of the following shall be considered a violation of probation and shall result in Respondent being immediately suspended from practice as a pharmacist until notified by the board in writing that he may resume practice: . . . . failure to test as required . . . . .

12. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 17, referenced above, because (1) on January 19, 2021, Respondent missed a mandatory check-in as part of his compliance with FS Solutions, and/or (2) on January 7, 2022, Respondent missed a scheduled test.

THIRD CAUSE TO REVOKE PROBATION

(Prescription Coordination and Monitoring of Prescription Use)

13. At all times after the effective date of Respondent's probation, Condition 20 stated, in pertinent part:

> Within thirty (30) days of the effective date of this decision, Respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the Respondent's history with the use of alcohol, and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation and decision. A record of this notification must be provided to the board or its designee upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board or its designee about Respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board or its designee may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should Respondent, for any reason, cease supervision by the approved practitioner, Respondent shall notify the board or its designee immediately and, within thirty (30) days of ceasing supervision, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board or its designee for approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of probation.
>
> . . . .
>
> Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

14. California Code of Regulations ("CCR") Title 16, section 1773 states, in pertinent part:

> (a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who is serving a period of probation shall comply with the following conditions:

. . . .

> (2) Report to the Board or its designee quarterly either in person or in writing as directed . . . . .

15. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 20 and CCR Title 16, section 1773, referenced above. The facts and circumstances regarding this violation are that Respondent failed to submit a report that was due by January 10, 2021 that covers the timeframe of October 2020 to December 2020.

PRAYER

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

1. Revoking the probation that was granted by the Board of Pharmacy in Case Nos. 6769 and 6307 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No. RPH 49478 issued to Timothy Robert Wee;

2. Revoking or suspending Pharmacist License No. RPH 49478, issued to Timothy Robert Wee, and;

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

DATED: 2/21/2022

Signature on File

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

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 6307

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

In the Matter of the Accusation Against: **TIMOTHY ROBERT WEE** **3388 Hagan Road** **Valley Springs, CA 95252** **Pharmacist License No. RPH 49478** Respondent.	Case No. 6307 OAH No. 2018050024

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 7, 2019.

It is so ORDERED on February 5, 2019.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Victor Law, R.Ph.
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: **TIMOTHY ROBERT WEE** **3388 Hagen Road** **Valley Springs, CA 95252** **Pharmacist License No. RPH 49478** Respondent.	Case No. 6307 OAH No. 2018050024 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Andrew M. Steinheimer, Deputy Attorney General.

2. Respondent Timothy Robert Wee (Respondent) is represented in this proceeding by attorney Brian Chavez-Ochoa.

3. On or about December 15, 1997, the Board issued Pharmacist License No. RPH 49478 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 6307, and will expire on May 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 6307 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 March 19, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 6307 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 6307. Respondent has also carefully read, fully discussed with counsel, 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 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 understands and agrees that the charges and allegations in Accusation No. 6307, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

///

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

11. 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

12. 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 or his counsel. 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.

13. 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.

14. 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.

15. 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 49478 issued to Respondent Timothy Robert Wee is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. **Report to the Board**

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

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed,

probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

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

5. **Continuing Education**

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

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

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 6307 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, Respondent shall report to the board in writing the name, physical address, and mailing address of each of his employer(s), and the name(s) and telephone number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior

employment. Respondent shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning Respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 6307, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number 6307, and the terms and conditions imposed thereby.

If Respondent works for or is employed by or through an employment service, Respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board of the decision in case number 6307, and the terms and conditions imposed thereby in advance of Respondent commencing work at such licensed entity. A record of this notification must be provided to the board upon request.

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

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

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

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 $4,712.50. 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. Failure to pay costs by the deadline(s) as directed shall be considered a violation 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.

11. **Status of License**

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

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

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

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

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

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

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

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

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

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

14. **Violation of Probation**

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

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

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

15. **Completion of Probation**

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

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

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

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

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

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

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

Failure to complete registration for any drug or alcohol testing mandated by the treatment

contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the PRP;

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

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

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

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

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

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

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

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

Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing the PRP. If Respondent fails to do so, probation shall be automatically extended until this condition has been met. Failure to satisfy this

condition within six (6) months beyond the original date of expiration of the term of probation shall be considered a violation of probation.

17. **Drug and Alcohol Testing**

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

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

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

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, Respondent shall seek and receive approval from the board or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, Respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by Respondent. During the period of absence of the area, Respondent shall commence testing

protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

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

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

During any such suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any

manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices and controlled substances.

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

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

18. **Notification of Departure**

Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, Respondent shall notify the board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

19. **Abstain from Drugs and Alcohol**

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

20. **Prescription Coordination and Monitoring of Prescription Use**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the Respondent's history with the use of alcohol, and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation and decision. A record of this notification must be provided to the board or its designee upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board or its designee about Respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board or its designee may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should Respondent, for any reason, cease supervision by the approved practitioner, Respondent shall notify the board or its designee immediately and, within thirty (30) days of ceasing supervision, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board or its designee for approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of probation.

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

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

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

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

21. **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.

22. **Supervised Practice**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the board or its designee, for prior approval, the name of a pharmacist by and not on probation with

the board, to serve as Respondent's practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number 6307, and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the board or its designee. This level will be determined by the board or its designee, will be communicated to the Respondent on or before the effective date of this decision and shall be one of the following:

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

Respondent may practice only under the required level of supervision by an approved practice supervisor. If, for any reason, including change of employment, Respondent is no longer supervised at the required level by an approved practice supervisor, within ten (10) days of this change in supervision Respondent shall submit to the board or its designee, for prior approval, the name of a pharmacist by and not on probation with the board, to serve as Respondent's replacement practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed replacement practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number 6307, and is familiar with the terms and conditions imposed thereby, including the level of supervision required.

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

Failure to nominate an initial practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within thirty (30) days;

Failure to nominate a replacement practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within ten (10) days;

Practicing in the absence of an approved practice supervisor beyond the initial or

replacement nomination period; or

Any failure to adhere to the required level of supervision.

Respondent shall not resume practice until notified in writing by the board or its designee.

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

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

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

Any of the following shall be considered a violation of probation: failure to timely nominate either an initial or a replacement practice supervisor; failure to cause the practice supervisor to timely report to the board in writing acknowledging the decision, terms and conditions, and supervision level; practicing in the absence of an approved practice supervisor after lapse of the nomination period; and/or failure to adhere to the level of supervision required by the board or its designee. If any of these obligations or prohibitions is not met, Respondent shall be prohibited from practice as a pharmacist and may not resume such practice until notified by the board or its designee in writing.

23. **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.

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If Respondent currently owns or has any legal or beneficial interest in, or serves 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 may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

ACCEPTANCE

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

DATED: 11/8/2018

TIMOTHY ROBERT WEE
Respondent

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

DATED: 11/8/18

BRIAN CHAVEZ-OCHOA
Attorney for Respondent

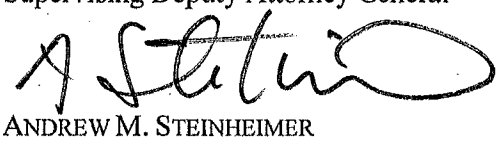
ENDORSEMENT

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

Dated: Nov. 13 2018

Respectfully submitted,

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



ANDREW M. STEINHEIMER
Deputy Attorney General
Attorneys for Complainant

SA2017109678

Exhibit A

Accusation No. 6307

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

In the Matter of the Accusation Against: **TIMOTHY ROBERT WEE** **3388 Hagen Road** **Valley Springs, CA 95252** **Pharmacist License No. RPH 49478** Respondent.	Case No. 6307 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about December 15, 1997, the Board issued Pharmacist License Number RPH 49478 to Timothy Robert Wee ("Respondent"). The pharmacist license was in full force and effect at all times relevant to the charges brought in the Accusation and will expire on May 31, 2019, unless renewed.

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 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

5. 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

6. Code section 4301 states, in pertinent part:

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

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

8. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (l), for unprofessional conduct, in that on or about August 7, 2017, in the criminal proceeding entitled *People vs. Timothy Robert Wee* (Calaveras County Super. Ct., Case Number 17T21247), Respondent pled guilty to violating Vehicle Code section 23152, subdivision (b) (drive a vehicle while having 0.08 percent or more, by weight, of alcohol in his blood), a misdemeanor. The imposition of Respondent's sentence was suspended and Respondent was placed on probation for 60 months. The circumstances of the crime are set forth below.

9. On or about March 10, 2017, Calaveras County Sheriff's deputies were dispatched to the Valley Christian Center in Valley Springs, California, on a report of a domestic altercation between a male and female. The male subject, later identified as Respondent, had been detained by another officer and was handcuffed and seated in a patrol vehicle. Officer A contacted Respondent and immediately smelled the strong odor of an alcoholic beverage emitting from

within the patrol vehicle. Officer A had Respondent exit the vehicle. Officer A smelled the strong odor of an alcoholic beverage emitting from Respondent's person, and Respondent had difficulty standing and his eyes were red and watery. Respondent admitted to Officer A that he had two to three glasses of wine while wine tasting earlier in the day and two to three beers with dinner at Hawg Dogs located in Valley Springs. Officer A administered field sobriety tests, which Respondent failed to perform as explained and demonstrated.

10. Deputy S contacted the female victim, and observed that she was bleeding from her nose and that her nose appeared red and slightly swollen. The victim stated that prior to the incident, she and Respondent were at the Hawg Dawg restaurant for dinner. After dinner, Respondent and the victim left the restaurant and were driving home. Respondent was driving the vehicle and the victim was in the front passenger seat. The victim told Respondent that he was driving way too hard. Respondent became upset and pulled the car over on Silver Rapids Road near the Valley Christian Center. Respondent began yelling at the victim and told her to get out of the car. The victim refused. Respondent punched the victim in the nose before she got out of the vehicle. Deputy S applied for an emergency protective order for the victim, and it was signed by Judge T. H.

11. Respondent was arrested for driving under the influence of alcohol and domestic violence and was transported to Mark Twain Hospital for a blood test. Respondent's blood sample showed that he had a blood alcohol level of 0.195 percent.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages to an Extent or in a Manner Dangerous or Injurious to Oneself, Others and the Public)

12. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (h), for unprofessional conduct, in that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, others, and the public, as set forth in paragraphs 8 through 11 above.

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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 49478, issued to Timothy Robert Wee;

2. Ordering Timothy Robert Wee to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 3/12/18

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

SA2017109678

Exhibit B

Decision and Order

Board of Pharmacy Case No. 6769

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

In the Matter of the Accusation Against:

TIMOTHY ROBERT WEE

Pharmacist License No. RPH 49478

Respondent

Agency Case No. 6769

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 October 15, 2020.

It is so ORDERED on September 15, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Greg Lippe
Board President

XAVIER BECERRA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General
ANDREW M. STEINHEIMER
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1300 I Street, Suite 125
P.O. Box 944255
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Telephone: (916) 210-7892
Facsimile: (916) 327-8643
Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: **TIMOTHY ROBERT WEE** 3388 Hagen Road Valley Springs, CA 95252 **Pharmacist License No. RPH 49478** Respondent.	Case No. 6769 OAH No. 2019121062 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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 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 Andrew M. Steinheimer, Deputy Attorney General.

2. Respondent Timothy Robert Wee (Respondent) is represented in this proceeding by attorney Brian R. Chavez-Ochoa, whose address is: 4 Jean Street, Suite #4, Valley Springs,

California, 95252.

3. On or about December 15, 1997, the Board issued Pharmacist License No. RPH 49478 to Respondent. Effective March 29, 2019, Respondent was automatically suspended. The Pharmacist License will expire on May 31, 2021, unless renewed.

4. In a disciplinary action entitled *In the Matter of the Accusation Against Timothy Robert Wee*, Case No. 6307, the Board issued a decision, effective March 7, 2019, in which Respondent's Pharmacist License was revoked. However, the revocation was stayed and Respondent's Pharmacist License was placed on probation for a period of four years with certain terms and conditions. A copy of the Board's Decision in Case No. 6307 is attached hereto as Exhibit A and is incorporated herein by reference.

JURISDICTION

5. Petition to Revoke Probation No. 6769 was filed before the Board, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on August 30, 2019. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation.

6. A copy of Petition to Revoke Probation No. 6769 is attached as exhibit B and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Petition to Revoke Probation No. 6769. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; 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.

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

CULPABILITY

10. Respondent admits the truth of each and every charge and allegation in Petition to Revoke Probation No. 6769.

11. 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

12. 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 or his counsel. 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.

13. 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.

14. 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.

15. 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 the order of probation in the Board's Decision and Order in Case No. 6307 (attached hereto as Exhibit A and incorporated herein by reference), effective March 7, 2019, is hereby extended an additional two years, for a total of six years. Thus, Respondent is placed on probation for a period of six years beginning March 7, 2019, on the following terms and conditions.

1. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. **Report to the Board**

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other

requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

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

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

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

5. **Continuing Education**

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

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

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 6307 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

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

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 6307, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number 6307, and the terms and conditions imposed thereby.

If Respondent works for or is employed by or through an employment service, Respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board of the decision in case number 6307, and the terms and conditions imposed thereby in advance of Respondent commencing work at such licensed entity. A record of this notification must be provided to the board upon request.

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

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

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

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 $4,712.50. 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. Failure to pay costs by the deadline(s) as directed shall be considered a violation 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.

11. **Status of License**

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

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

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

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

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

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

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

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

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

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

14. **Violation of Probation**

If Respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent that probation shall automatically be extended, until all terms and conditions have been satisfied

or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed. The board or its designee may post a notice of the extended probation period on its website.

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

15. **Completion of Probation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing the PRP. If Respondent fails to do so, probation shall be automatically extended until this condition has been met. Failure to satisfy this condition within six (6) months beyond the original date of expiration of the term of probation shall be considered a violation of probation.

17. **Drug and Alcohol Testing**

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

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

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

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, Respondent shall seek and receive approval from the board or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, Respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by Respondent. During the period of absence of the area, Respondent shall commence testing protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

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

Any of the following shall be considered a violation of probation and shall result in Respondent being immediately suspended from practice as a pharmacist until notified by the board in writing that he may resume practice: failure to timely complete all of the steps required for enrollment/registration with the drug testing vendor, including making arrangements for payment; failure to timely commence drug testing protocols; failure to contact the drug testing vendor as required to determine testing date(s); failure to test as required; failure to timely supply documentation demonstrating that a detected substance was taken pursuant to a legitimate prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the

detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee shall inform Respondent of the suspension and inform him to immediately leave work, and shall notify Respondent's employer(s) and work site monitor(s) of the suspension.

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

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

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

18. **Notification of Departure**

Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, Respondent shall notify the board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

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19. **Abstain from Drugs and Alcohol**

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

20. **Prescription Coordination and Monitoring of Prescription Use**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the Respondent's history with the use of alcohol, and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation and decision. A record of this notification must be provided to the board or its designee upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board or its designee about Respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board or its designee may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should Respondent, for any reason, cease supervision by the approved practitioner, Respondent shall notify the board or its designee immediately and, within thirty (30) days of ceasing supervision,

submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board or its designee for approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of probation.

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

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

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

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

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21. **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.

22. **Supervised Practice**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the board or its designee, for prior approval, the name of a pharmacist by and not on probation with the board, to serve as Respondent's practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number 6307, and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the board or its designee. This level will be determined by the board or its designee, will be communicated to the Respondent on or before the effective date of this decision and shall be one of the following:

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

Respondent may practice only under the required level of supervision by an approved practice supervisor. If, for any reason, including change of employment, Respondent is no longer supervised at the required level by an approved practice supervisor, within ten (10) days of this change in supervision Respondent shall submit to the board or its designee, for prior approval, the name of a pharmacist by and not on probation with the board, to serve as Respondent's replacement practice supervisor. As part of the documentation submitted, Respondent shall cause

the proposed replacement practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number 6307, and is familiar with the terms and conditions imposed thereby, including the level of supervision required.

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

Failure to nominate an initial practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within thirty (30) days;

Failure to nominate a replacement practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within ten (10) days;

Practicing in the absence of an approved practice supervisor beyond the initial or replacement nomination period; or

Any failure to adhere to the required level of supervision.

Respondent shall not resume practice until notified in writing by the board or its designee.

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

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

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

Any of the following shall be considered a violation of probation: failure to timely nominate either an initial or a replacement practice supervisor; failure to cause the practice supervisor to timely report to the board in writing acknowledging the decision, terms and conditions, and supervision level; practicing in the absence of an approved practice supervisor after lapse of the nomination period; and/or failure to adhere to the level of supervision required by the board or its designee. If any of these obligations or prohibitions is not met, Respondent shall be prohibited from practice as a pharmacist and may not resume such practice until notified by the board or its designee in writing.

23. **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.

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If Respondent currently owns or has any legal or beneficial interest in, or serves 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 may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

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ACCEPTANCE

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

DATED: _____ _____

TIMOTHY ROBERT WEE
Respondent

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

DATED: _____ _____

BRIAN R. CHAVEZ-OCHOA
Attorney for Respondent

ENDORSEMENT

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

DATED: ____8/7/2020_____

Respectfully submitted,

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

/s/ Andrew Steinheimer

ANDREW M. STEINHEIMER
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

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

DATED: 8/6/2020

TIMOTHY ROBERT WEE
Respondent

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

DATED: 8/6/2020

BRIAN R. CHAVEZ-OCHOA
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

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

ANDREW M. STEINHEIMER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Decision and Order Case No. 6307

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

In the Matter of the Accusation Against: **TIMOTHY ROBERT WEE** **3388 Hagan Road** **Valley Springs, CA 95252** **Pharmacist License No. RPH 49478** Respondent.	Case No. 6307 OAH No. 2018050024

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 7, 2019.

It is so ORDERED on February 5, 2019.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Victor Law, R.Ph.
Board President

XAVIER BECERRA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General
ANDREW M. STEINHEIMER
Deputy Attorney General
State Bar No. 200524
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-7892
Facsimile: (916) 327-8643
Attorneys for Complainant

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

In the Matter of the Accusation Against: **TIMOTHY ROBERT WEE** **3388 Hagen Road** **Valley Springs, CA 95252** **Pharmacist License No. RPH 49478** Respondent.	Case No. 6307 OAH No. 2018050024 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Andrew M. Steinheimer, Deputy Attorney General.

2. Respondent Timothy Robert Wee (Respondent) is represented in this proceeding by attorney Brian Chavez-Ochoa.

3. On or about December 15, 1997, the Board issued Pharmacist License No. RPH 49478 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 6307, and will expire on May 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 6307 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 March 19, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 6307 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 6307. Respondent has also carefully read, fully discussed with counsel, 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 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 understands and agrees that the charges and allegations in Accusation No. 6307, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

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

11. 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

12. 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 or his counsel. 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.

13. 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.

14. 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.

15. 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 49478 issued to Respondent Timothy Robert Wee is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. **Report to the Board**

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

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed,

probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

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

5. **Continuing Education**

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

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

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 6307 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, Respondent shall report to the board in writing the name, physical address, and mailing address of each of his employer(s), and the name(s) and telephone number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior

employment. Respondent shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning Respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 6307, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number 6307, and the terms and conditions imposed thereby.

If Respondent works for or is employed by or through an employment service, Respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board of the decision in case number 6307, and the terms and conditions imposed thereby in advance of Respondent commencing work at such licensed entity. A record of this notification must be provided to the board upon request.

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

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

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

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 $4,712.50. 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. Failure to pay costs by the deadline(s) as directed shall be considered a violation 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.

11. **Status of License**

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

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

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

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

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

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

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

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

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

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

14. **Violation of Probation**

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

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

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

15. **Completion of Probation**

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

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

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

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

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

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

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

Failure to complete registration for any drug or alcohol testing mandated by the treatment

contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the PRP;

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

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

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

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

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

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

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

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

Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing the PRP. If Respondent fails to do so, probation shall be automatically extended until this condition has been met. Failure to satisfy this

condition within six (6) months beyond the original date of expiration of the term of probation shall be considered a violation of probation.

17. **Drug and Alcohol Testing**

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

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

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

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, Respondent shall seek and receive approval from the board or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, Respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by Respondent. During the period of absence of the area, Respondent shall commence testing

protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

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

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

During any such suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any

manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices and controlled substances.

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

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

18. **Notification of Departure**

Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, Respondent shall notify the board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

19. **Abstain from Drugs and Alcohol**

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

20. **Prescription Coordination and Monitoring of Prescription Use**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the Respondent's history with the use of alcohol, and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation and decision. A record of this notification must be provided to the board or its designee upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board or its designee about Respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board or its designee may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should Respondent, for any reason, cease supervision by the approved practitioner, Respondent shall notify the board or its designee immediately and, within thirty (30) days of ceasing supervision, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board or its designee for approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of probation.

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

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

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

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

21. **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.

22. **Supervised Practice**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the board or its designee, for prior approval, the name of a pharmacist by and not on probation with

the board, to serve as Respondent's practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number 6307, and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the board or its designee. This level will be determined by the board or its designee, will be communicated to the Respondent on or before the effective date of this decision and shall be one of the following:

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

Respondent may practice only under the required level of supervision by an approved practice supervisor. If, for any reason, including change of employment, Respondent is no longer supervised at the required level by an approved practice supervisor, within ten (10) days of this change in supervision Respondent shall submit to the board or its designee, for prior approval, the name of a pharmacist by and not on probation with the board, to serve as Respondent's replacement practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed replacement practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number 6307, and is familiar with the terms and conditions imposed thereby, including the level of supervision required.

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

Failure to nominate an initial practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within thirty (30) days;

Failure to nominate a replacement practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within ten (10) days;

Practicing in the absence of an approved practice supervisor beyond the initial or

replacement nomination period; or

Any failure to adhere to the required level of supervision.

Respondent shall not resume practice until notified in writing by the board or its designee.

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

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

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

Any of the following shall be considered a violation of probation: failure to timely nominate either an initial or a replacement practice supervisor; failure to cause the practice supervisor to timely report to the board in writing acknowledging the decision, terms and conditions, and supervision level; practicing in the absence of an approved practice supervisor after lapse of the nomination period; and/or failure to adhere to the level of supervision required by the board or its designee. If any of these obligations or prohibitions is not met, Respondent shall be prohibited from practice as a pharmacist and may not resume such practice until notified by the board or its designee in writing.

23. **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.

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If Respondent currently owns or has any legal or beneficial interest in, or serves 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 may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

ACCEPTANCE

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

DATED: 11/8/2018

TIMOTHY ROBERT WEE
Respondent

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

DATED: 11/8/18

BRIAN CHAVEZ-OCHOA
Attorney for Respondent

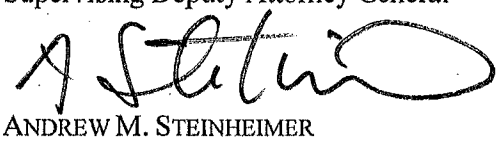
ENDORSEMENT

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

Dated: Nov. 13 2018

Respectfully submitted,

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



ANDREW M. STEINHEIMER
Deputy Attorney General
Attorneys for Complainant

SA2017109678

Exhibit A

Accusation No. 6307

XAVIER BECERRA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General
ANDREW M. STEINHEIMER
Deputy Attorney General
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Sacramento, CA 94244-2550
Telephone: (916) 210-7892
Facsimile: (916) 327-8643
Attorneys for Complainant

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

In the Matter of the Accusation Against: **TIMOTHY ROBERT WEE** **3388 Hagen Road** **Valley Springs, CA 95252** **Pharmacist License No. RPH 49478** Respondent.	Case No. 6307 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about December 15, 1997, the Board issued Pharmacist License Number RPH 49478 to Timothy Robert Wee ("Respondent"). The pharmacist license was in full force and effect at all times relevant to the charges brought in the Accusation and will expire on May 31, 2019, unless renewed.

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 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

5. 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

6. Code section 4301 states, in pertinent part:

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

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

8. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (l), for unprofessional conduct, in that on or about August 7, 2017, in the criminal proceeding entitled *People vs. Timothy Robert Wee* (Calaveras County Super. Ct., Case Number 17T21247), Respondent pled guilty to violating Vehicle Code section 23152, subdivision (b) (drive a vehicle while having 0.08 percent or more, by weight, of alcohol in his blood), a misdemeanor. The imposition of Respondent's sentence was suspended and Respondent was placed on probation for 60 months. The circumstances of the crime are set forth below.

9. On or about March 10, 2017, Calaveras County Sheriff's deputies were dispatched to the Valley Christian Center in Valley Springs, California, on a report of a domestic altercation between a male and female. The male subject, later identified as Respondent, had been detained by another officer and was handcuffed and seated in a patrol vehicle. Officer A contacted Respondent and immediately smelled the strong odor of an alcoholic beverage emitting from

within the patrol vehicle. Officer A had Respondent exit the vehicle. Officer A smelled the strong odor of an alcoholic beverage emitting from Respondent's person, and Respondent had difficulty standing and his eyes were red and watery. Respondent admitted to Officer A that he had two to three glasses of wine while wine tasting earlier in the day and two to three beers with dinner at Hawg Dogs located in Valley Springs. Officer A administered field sobriety tests, which Respondent failed to perform as explained and demonstrated.

10. Deputy S contacted the female victim, and observed that she was bleeding from her nose and that her nose appeared red and slightly swollen. The victim stated that prior to the incident, she and Respondent were at the Hawg Dawg restaurant for dinner. After dinner, Respondent and the victim left the restaurant and were driving home. Respondent was driving the vehicle and the victim was in the front passenger seat. The victim told Respondent that he was driving way too hard. Respondent became upset and pulled the car over on Silver Rapids Road near the Valley Christian Center. Respondent began yelling at the victim and told her to get out of the car. The victim refused. Respondent punched the victim in the nose before she got out of the vehicle. Deputy S applied for an emergency protective order for the victim, and it was signed by Judge T. H.

11. Respondent was arrested for driving under the influence of alcohol and domestic violence and was transported to Mark Twain Hospital for a blood test. Respondent's blood sample showed that he had a blood alcohol level of 0.195 percent.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages to an Extent or in a Manner Dangerous or Injurious to Oneself, Others and the Public)

12. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (h), for unprofessional conduct, in that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, others, and the public, as set forth in paragraphs 8 through 11 above.

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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 49478, issued to Timothy Robert Wee;

2. Ordering Timothy Robert Wee to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 3/12/18

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

SA2017109678

Exhibit B

Petition to Revoke Probation No. 6769

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Supervising Deputy Attorney General
ANDREW M. STEINHEIMER
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Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: **TIMOTHY ROBERT WEE** 3388 Hagen Road Valley Springs, CA 95252 **Pharmacist License No. RPH 49478** Respondent.	Case No. 6769 **PETITION TO REVOKE PROBATION**

PARTIES

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

2. On or about December 15, 1997, the Board issued Pharmacist License Number RPH 49478 to Timothy Robert Wee ("Respondent"). Effective March 29, 2019, Respondent was automatically suspended. The Pharmacist License will expire on May 31, 2021.

PRIOR DISCIPLINE

3. In a disciplinary action entitled *In the Matter of the Accusation Against Timothy Robert Wee*, Case No. 6307, the Board issued a decision, effective March 7, 2019, in which

Respondent's Pharmacist License was revoked. However, the revocation was stayed and Respondent's Pharmacist License was placed on probation for a period of four years with certain terms and conditions. The terms of Respondent's probation included the requirement that Respondent enroll in and successfully complete the California State Board of Pharmacy Diversion Program – the Pharmacists Recovery Program (PRP).

4. Effective March 29, 2019, Respondent was terminated as a public safety risk from the PRP due to Respondent's refusal to comply with PRP program requirements, his 21-year history of alcohol abuse, his report of domestic violence while impaired, and his request that his case with the program be closed.

JURISDICTION

5. At all times after the effective date of Respondent's probation, Condition 14 stated:

> If Respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent that probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed. The board or its designee may post a notice of the extended probation period on its website.
>
> If Respondent violates probation in any respect, the board, after giving Respondent notice and an opportunity to be· heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

6. Respondent's probation is subject to revocation, in that he violated probation as set forth below.

CAUSE TO REVOKE PROBATION

(Failure to Participate in the Pharmacy Recovery Program)

7. At all times after the effective date of Respondent's probation, Condition 16 stated, in pertinent part:

> By no later than ten (10) days after the effective date of this decision, Respondent shall have completed all of the following: contacted the Pharmacists Recovery Program (PRP) for evaluation; enrolled in the PRP; completed, signed,

> and returned the treatment contract as well as any addendums required or suggested by the PRP; successfully completed registration for any drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and begun compliance with the drug or alcohol testing protocol(s). Respondent shall successfully participate in the PRP and complete the treatment contract and any addendums required or suggested by the PRP. The costs for PRP participation shall be borne by the Respondent.
>
> . . . .
>
> Any of the following shall result in the automatic suspension of practice by Respondent and shall be considered a violation of probation:
>
> Failure to contact, complete enrollment, and execute and return the treatment contract with the PRP, including any addendum(s), within ten (10) days of the effective date of the decision as directed by the PRP;
>
> Failure to complete registration for any drug or alcohol testing mandated by the treatment. contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the PRP;
>
> Failure to comply with testing protocols regarding daily check-in and/or failure to complete a mandated test as directed by the PRP;
>
> Any report from the PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s); or
>
> Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.
>
> . . . .
>
> Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation. . . .

8. Respondent's probation is subject to revocation for failing to comply with Condition 16 referenced above, as follows:

a. Respondent failed to sign and return the PRP Recovery Agreement.

b. Respondent failed to register for drug and alcohol testing or comply with testing protocols regarding daily check-in.

c. Respondent failed to complete an in-person assessment to assess his substance abuse.

d. On or about March 29, 2019, Respondent was terminated from the PRP as a public safety risk.

e. Respondent failed to comply with the requirements and deadlines set forth in this paragraph 8, subparagraphs a through d, above.

PRAYER

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

1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 6307 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License Number RPH 49478, issued to Timothy Robert Wee; and,

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

DATED: August 26, 2019

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

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