

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

In the Matter of the Accusation Against:

**NDUBISI NWABUEZE NDUKWE,
Registered Pharmacist License No. RPH 62180**

Respondent.

Agency Case No. 7508

OAH No. 2023070697

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 November 29, 2023.

It is so ORDERED on October 30, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh".

Seung W. Oh, Pharm.D.
Board President

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

11 In the Matter of the Accusation Against:

12 **NDUBISI NWABUEZE NDUKWE**
13 **2621 Centinela Ave 6**
Santa Monica, CA 90405

14 **Pharmacist License No. RPH 62180**

15 Respondent.
16

Case No. 7508

OAH No. 2023070697

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 **PARTIES**

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

25 2. Respondent Ndubisi Nwabueze Ndukwe (Respondent) is represented in this
26 proceeding by attorney Lucy S. McAllister, whose address is: 255 N. Market Street, Suite 100
27 San Jose, CA 95110
28

1 3. On or about February 4, 2009, the Board issued Pharmacist License No. RPH 62180
2 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 7508, and will expire on November 30, 2024, unless renewed.

4 **JURISDICTION**

5 4. Accusation No. 7508 was filed before the Board, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on May 11, 2023. Respondent timely filed his Notice of Defense contesting the
8 Accusation.

9 5. A copy of Accusation No. 7508 is attached as exhibit A and incorporated herein by
10 reference.

11 **ADVISEMENT AND WAIVERS**

12 6. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 7508. Respondent has also carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
15 Order.

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

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

24 **CULPABILITY**

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 7508.

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent 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.

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 62180 issued to Respondent Ndubisi Nwabueze Ndukwe is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1 **1. Obey All Laws**

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

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

- 5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal
7 controlled substances laws
8 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
9 criminal proceeding to any criminal complaint, information or indictment
10 • a conviction of any crime
11 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another

12 administrative action filed by any state or federal agency which involves
13 Respondent's license or which is related to the practice of pharmacy or the
14 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
15 device or controlled substance.

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

17 **2. Report to the Board**

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

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

1 **3. Interview with the Board**

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

7 **4. Cooperate with Board Staff**

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

14 **5. Continuing Education**

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

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

18 During the period of probation, Respondent shall notify all present and prospective
19 employers of the decision in case number 7508 and the terms, conditions and restrictions imposed
20 on Respondent by the decision, as follows:

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

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

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 Respondent undertaking any new employment, Respondent shall cause (a) Respondent's direct
7 supervisor, (b) Respondent's pharmacist-in-charge, designated representative-in-charge,
8 responsible manager, or other compliance supervisor, and (c) the owner or owner representative
9 of Respondent's employer, to report to the board in writing acknowledging that the listed
10 individual(s) has/have read the decision in case number 7508, and terms and conditions imposed
11 thereby. If one person serves in more than one role described in (a), (b), or (c), the
12 acknowledgment shall so state. It shall be the Respondent's responsibility to ensure that these
13 acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s)
14 serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent shall
15 cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days
16 of the change acknowledging that he or she has read the decision in case number 7508, and the
17 terms and conditions imposed thereby.

18 If Respondent works for or is employed by or through an employment service, Respondent
19 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
20 of the decision in case number 7508, and the terms and conditions imposed thereby in advance of
21 Respondent commencing work at such licensed entity. A record of this notification must be
22 provided to the board upon request.

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

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

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

8 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

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

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

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

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

18 **9. Reimbursement of Board Costs**

19 As a condition precedent to successful completion of probation, Respondent shall pay to the
20 board its costs of investigation and prosecution in the amount of \$4,316.25. Respondent shall
21 make said payments as follows:

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

25 Respondent shall be permitted to pay these costs in a payment plan approved by the board
26 or its designee, so long as full payment is completed no later than one (1) year prior to the end
27 date of probation.

1 **10. Probation Monitoring Costs**

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

6 **11. Status of License**

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

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

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

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

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

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

3 13. Practice Requirement – Extension of Probation

4 Except during periods of suspension, Respondent shall, at all times while on probation, be
5 employed as a Pharmacist in California for a minimum of 100 hours per calendar month. Any
6 month during which this minimum is not met shall extend the period of probation by one month.
7 During any such period of insufficient employment, Respondent must nonetheless comply with
8 all terms and conditions of probation, unless Respondent receives a waiver in writing from the
9 board or its designee.

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

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

23 14. Violation of Probation

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

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

10 **15. Completion of Probation**

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

13 **16. Drug and Alcohol Testing**

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

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

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

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

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

22 Any of the following shall be considered a violation of probation and shall result in
23 Respondent being immediately suspended from practice as a Pharmacist until notified by the
24 board in writing that he may resume practice: failure to timely complete all of the steps required
25 for enrollment/registration with the drug testing vendor, including making arrangements for
26 payment; failure to timely commence drug testing protocols; failure to contact the drug testing
27 vendor as required to determine testing date(s); failure to test as required; failure to timely supply
28 documentation demonstrating that a detected substance was taken pursuant to a legitimate

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

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

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

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

25 **17. Notification of Departure**

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

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

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

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

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

1 Respondent, for any reason, cease supervision by the approved practitioner, Respondent shall
2 notify the board or its designee immediately and, within thirty (30) days of ceasing supervision,
3 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
4 of Respondent's choice to the board or its designee for its prior approval. Failure to timely submit
5 the selected practitioner or replacement practitioner to the board or its designee for approval, or to
6 ensure the required quarterly reporting thereby, shall be considered a violation of probation.

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

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

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

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

1 **20. Facilitated Group Recovery and/or Support Meetings**

2 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular
3 attendance at a group recovery and/or support meeting that is run by a trained facilitator approved
4 in advance by the board or its designee. The required frequency of group meeting attendance
5 shall be determined by the board or its designee. Respondent shall continue regular attendance as
6 directed at an approved facilitated group meeting until the board or its designee advises the
7 Respondent in writing that he may cease regular attendance. Respondent shall provide signed and
8 dated documentation of attendance as required with each quarterly report. Failure to attend as
9 required or to submit documentation of attendance shall be considered a violation of probation.

10 If Respondent is required to participate in the PRP, compliance with this term can be
11 demonstrated through that program. Where Respondent is enrolled in the PRP, participation as
12 required in a facilitated group meeting approved by the PRP shall be sufficient for satisfaction of
13 this requirement. Any deviation from participation requirements for the PRP-approved group
14 shall be considered a violation of probation.

15 **21. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

16 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular
17 attendance at a recognized and established substance abuse recovery support group in California
18 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
19 or its designee. Respondent must attend the number of group meetings per week or month
20 directed by the board or its designee, which shall typically be at least one per week. Respondent
21 shall continue regular attendance and submit signed and dated documentation confirming
22 attendance with each quarterly report for the duration of probation. Failure to attend or submit
23 documentation thereof shall be considered a violation of probation.

24 Where Respondent is enrolled in the PRP, participation as required in a recovery group
25 meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any
26 deviation from participation requirements for the PRP-approved group shall be considered a
27 violation of probation.
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1 **22. Work Site Monitor**

2 Within ten (10) days of the effective date of this decision, Respondent shall identify a work
3 site monitor, for prior approval by the board or its designee, who shall be responsible for
4 supervising Respondent during working hours. Respondent shall be responsible for ensuring that
5 the work site monitor reports in writing to the board monthly or on another schedule as directed
6 by the board or its designee. Should the designated work site monitor suspect at any time during
7 the probationary period that Respondent has abused alcohol or drugs, he or she shall notify the
8 board immediately.

9 In the event of suspected abuse, the monitor shall make at least oral notification within one
10 (1) business day of the occurrence, and shall be followed by written notification within two (2)
11 business days of the occurrence. If, for any reason, including change of employment, Respondent
12 is no longer able to be monitored by the approved work site monitor, within ten (10) days
13 Respondent shall designate a new work site monitor for approval by the board or its designee.
14 Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure
15 monthly reports are submitted to the board by the monitor, shall be considered a violation of
16 probation.

17 Within thirty (30) days of being approved by the board or its designee, the work site
18 monitor shall sign an affirmation that he or she has reviewed the terms and conditions of
19 Respondent's disciplinary order and agrees to monitor Respondent. The work site monitor shall
20 at least:

- 21 1) Have regular face-to-face contact with Respondent in the work environment, at least
22 once per week or with greater frequency if required by the board or its designee;
23 2) Interview other staff in the office regarding Respondent's behavior, if applicable; and
24 3) Review Respondent's work attendance.

25 The written reports submitted to the board or its designee by the work site monitor shall
26 include at least the following information: Respondent's name and license number; the monitor's
27 name, license number (if applicable) and work site location; the date(s) the monitor had face-to-
28 face contact with Respondent; the staff interviewed, if applicable; an attendance report; notes on

any changes in Respondent's behavior or personal habits; notes on any indicators that may lead to substance abuse; and the work site monitor's signature.

Respondent shall complete the required consent forms and sign an agreement with the work site monitor and the board to allow the board to communicate with the work site monitor.

Within thirty (30) days of being approved by the PRP, the work site monitor shall sign an affirmation that he or she has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent. The work site monitor shall at least:

- 1) Have regular face-to-face contact with Respondent in the work environment, at least once per week or with greater frequency if required by the board or its designee;
- 2) Interview other staff in the office regarding Respondent's behavior, if applicable; and
- 3) Review Respondent's work attendance.

The written reports submitted to the PRP by the work site monitor shall include at least the following information: Respondent's name and license number; the monitor's name, license number (if applicable) and work site location; the date(s) the monitor had face-to-face contact with Respondent; the staff interviewed, if applicable; an attendance report; notes on any changes in Respondent's behavior or personal habits; notes on any indicators that may lead to substance abuse; and the work site monitor's signature.

Respondent shall complete the required consent forms and sign an agreement with the work site monitor and the board to allow the board to communicate with the work site monitor.

23. 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.

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

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

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

- 10 • Failure to contact, complete enrollment, and execute and return the treatment contract
11 with the PRP, including any addendum(s), within ten (10) days of the effective date of
12 the decision as directed by the PRP;
- 13 • Failure to complete registration for any drug or alcohol testing mandated by the
14 treatment contract and/or by the PRP, and begin compliance with the testing protocol(s),
15 within ten (10) days of the effective date of the decision as directed by the
16 PRP;
- 17 • Failure to comply with testing protocols regarding daily check-in and/or failure to
18 complete a mandated test as directed by the PRP;
- 19 • Any report from the PRP of material non-compliance with the terms and conditions of
20 the treatment contract and/or any addendum(s); or
- 21 • Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

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

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

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

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

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

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

13 **24. No Ownership or Management of Licensed Premises**

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

21 **25. Criminal Probation/Parole Reports**

22 Within ten (10) days of the effective date of this decision, or within ten (10) days of the
23 issuance or assignment/replacement of same, whichever is earlier, Respondent shall provide the
24 board or its designee in writing: a copy of the conditions of any criminal probation/parole
25 applicable to Respondent; and the name and contact information of any probation, parole or
26 similar supervisory officer assigned to Respondent. Respondent shall provide a copy of all
27 criminal probation/parole reports to the board within ten (10) days after such report is issued.
28 Failure to timely make any of the submissions required hereby shall be considered a violation of

1 probation.

2 **ACCEPTANCE**

3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Lucy S. McAllister. I understand the stipulation and the effect it
5 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
6 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
7 of the Board of Pharmacy.

8
9 DATED: _____

NDUBISI NWABUEZE NDUKWE
Respondent

11 I have read and fully discussed with Respondent Ndubisi Nwabueze Ndukwe the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

14 DATED: _____

LUCY S. MCALLISTER
Attorney for Respondent

16 **ENDORSEMENT**

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

19
20 DATED: _____

Respectfully submitted,

21 ROB BONTA
Attorney General of California
22 THOMAS L. RINALDI
Supervising Deputy Attorney General

23
24 DIANA PETIKYAN
Deputy Attorney General
25 *Attorneys for Complainant*


26
27 LA2023601194
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28

probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Lucy S. McAllister. 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.

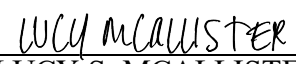
DATED: 9/18/2023

DocuSigned by:

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NDUBISI NWABUEZE NDUKWE
Respondent

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

DATED: 9/18/2023

DocuSigned by:

LUCY S. McALLISTER
Attorney for Respondent

ENDORSEMENT

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

DATED: 9/18/23

Respectfully submitted,

ROB BONTA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General



DIANA PETIKYAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7508

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6310
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 7508

13 **NDUBISI NWABUEZE NDUKWE**
2621 Centinela Ave 6
14 Santa Monica, CA 90405

ACCUSATION

15 Pharmacist License No. RPH 62180

16 Respondent.
17
18

19 **PARTIES**

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

22 2. On or about February 4, 2009, the Board issued Pharmacist License Number RPH
23 62180 to Ndubisi Nwabueze Ndukwe (Respondent). The Pharmacist License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on November 30,
25 2024, unless renewed.

26 ///

27 ///

28 ///

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 unless otherwise indicated.

4. Section 4300 states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

(3) Restriction of type or circumstances of practice.

(4) Continuing participation in a board-approved rehabilitation program.

(5) Abstention from the use of alcohol or drugs.

(6) Random fluid testing for alcohol or drugs.

(7) Compliance with laws and regulations governing the practice of pharmacy.

(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. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(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.

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

7. Section 4301 states, in pertinent part:

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

...

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

(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

1 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
2 dismissing the accusation, information, or indictment.

3 **REGULATORY PROVISIONS**

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

5 (a) For the purpose of denial, suspension, or revocation of a personal or facility
6 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
7 Business and Professions Code, a crime, professional misconduct, or act shall be
8 considered substantially related to the qualifications, functions or duties of the
9 practice, profession, or occupation that may be performed under the license type
10 sought or held if to a substantial degree it evidences present or potential unfitness of
11 an applicant or licensee to perform the functions authorized by the license in a
12 manner consistent with the public health, safety, or welfare.

13 (b) In making the substantial relationship determination required under
14 subdivision (a) for a crime, the board will consider the following criteria:

15 (1) The nature and gravity of the offense;

16 (2) The number of years elapsed since the date of the offense; and

17 (3) The nature and duties of the practice, profession, or occupation that may be
18 performed under the license type sought or held.

19 (c) For purposes of subdivision (a), substantially related crimes, professional
20 misconduct, or acts shall include, but are not limited to, those which:

21 (1) Violate or attempt to violate, directly or indirectly, or to aid, abet or
22 conspire to violate, any provision of law of this state, or any other jurisdiction,
23 governing the practice of pharmacy.

24 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
25 conspire to violate, any provision of Chapter 13 (commencing with Section 801) of
26 Title 21 of the United States Code regulating controlled substances or any law of this
27 state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

28 (3) Violate or attempt to violate, directly or indirectly, or to aid, abet or
conspire to violate, any provision of law of this state, or any other jurisdiction,
relating to government provided or government supported healthcare.

(4) Involve dishonesty, fraud, deceit, or corruption related to money, items,
documents, or personal information.

(5) Involve a conviction for driving under the influence of drugs or alcohol.

24 **COST RECOVERY**

25 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
26 law judge to direct a licensee found to have committed a violation or violations of the licensing
27 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
28 case.

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Substantially Related Crime)

10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacist. Specifically, on or about April 12, 2023, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving while under the influence of alcohol] and one misdemeanor conviction of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v. Ndubuisi Ndukwe* (Super. Ct. Orange County, 2023, No. 22HM06330). The court ordered Respondent to complete a 9-month first offender DUI program and placed him on 3 years' probation, with terms and conditions. The circumstances surrounding the conviction are that on or about December 30, 2021, Respondent was involved in a traffic collision. While speaking to Respondent, a responding police officer could smell the odor of alcohol emitting from his breath and person. When asked, Respondent initially denied drinking any alcohol but then admitted to drinking while at a friend's house earlier in the evening. While at the scene, Respondent submitted to a series of field sobriety tests which he was unable to perform as indicated. During the booking procedure, Respondent provided a blood sample that revealed a blood alcohol content level of 0.24%.

SECOND CAUSE FOR DISCIPLINE
(Dangerous Use of Alcohol)

11. Respondent is subject to disciplinary action under section 4301, subdivision (h), on the grounds of unprofessional conduct, in that on or about December 30, 2021, Respondent used alcohol to an extent or in a manner dangerous or injurious to himself, any person, or, the public. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 10, as though fully set forth herein.

///

///

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 62180, issued to Ndubisi Nwabueze Ndukwe;

2. Ordering Ndubisi Nwabueze Ndukwe 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: 5/8/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.05.08 08:05:58 -07'00'

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

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