

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

In the Matter of the Accusation Against:

CHRISTOPHER BLAINE RUTHERFORD

Pharmacist License No. RPH 74766

Respondent

Agency Case No. 7575

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on February 1, 2024.

It is so ORDERED on January 2, 2024.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

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

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14 In the Matter of the Accusation Against:

Case No. 7575

15 **CHRISTOPHER BLAINE RUTHERFORD**
16 **17408 Matinal Rd., #3823**
San Diego, CA 92127

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **Pharmacist License No. RPH 74766**

18 Respondent.

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

22 **PARTIES**

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

27 2. Respondent Christopher Blaine Rutherford (Respondent) is representing himself in
28 this proceeding and has chosen not to exercise his right to be represented by counsel.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 74766 issued to Respondent
3 Christopher Blaine Rutherford is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for five (5) years on the following terms and conditions:

5 **1. Obey All Laws**

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

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

- 9
- 10 • an arrest or issuance of a criminal complaint for violation of any provision of the
11 Pharmacy Law, state and federal food and drug laws, or state and federal
12 controlled substances laws
 - 13 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
14 criminal proceeding to any criminal complaint, information or indictment
 - 15 • a conviction of any crime
 - 16 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another
17 administrative action filed by any state or federal agency which involves
18 respondent’s license or which is related to the practice of pharmacy or the
19 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
20 device or controlled substance.

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

22 **2. Report to the Board**

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

27 Failure to submit timely reports in a form as directed shall be considered a violation of
28 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,

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

3 **3. Interview with the Board**

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

9 **4. Cooperate with Board Staff**

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

16 **5. Continuing Education**

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

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

20 During the period of probation, respondent shall notify all present and prospective
21 employers of the decision in case number 7575 and the terms, conditions and restrictions imposed
22 on respondent by the decision, as follows:

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

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

6 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
7 respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b)
8 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
9 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
10 board in writing acknowledging that the listed individual(s) has/have read the decision in case
11 number 7575, and terms and conditions imposed thereby. If one person serves in more than one
12 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
13 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
14 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
15 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
16 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
17 in case number 7575, and the 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 7575, 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 service
26 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 an
7 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 the
15 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 \$2,432.50. Failure to pay costs
21 by the deadline(s) as directed shall be considered a violation of probation.

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

25 **10. Probation Monitoring Costs**

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

1 be considered a violation of probation.

2 **11. Status of License**

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

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

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

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

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

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

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

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

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

21 **14. Violation of Probation**

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

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

8 **15. Completion of Probation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **17. Drug and Alcohol Testing**

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

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

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

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

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

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

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

26 During any such 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 pharmacy nor do any act involving drug selection,
3 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
4 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
5 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
6 dangerous devices and controlled substances.

7 During any such 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.

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

14 **18. Notification of Departure**

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

19 **19. Abstain from Drugs and Alcohol**

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

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

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

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

1 or its designee that practice may be resumed.

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

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

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

18 **21. Facilitated Group Recovery and/or Support Meetings**

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

27 If respondent is required to participate in the PRP, compliance with this term can be
28 demonstrated through that program. Where respondent is enrolled in the PRP, participation as

1 required in a facilitated group meeting approved by the PRP shall be sufficient for satisfaction of
2 this requirement. Any deviation from participation requirements for the PRP-approved group
3 shall be considered a violation of probation.

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

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

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

17 **23. Work Site Monitor**

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

25 In the event of suspected abuse, the monitor shall make at least oral notification within one
26 (1) business day of the occurrence, and shall be followed by written notification within two (2)
27 business days of the occurrence. If, for any reason, including change of employment, respondent
28 is no longer able to be monitored by the approved work site monitor, within ten (10) days

1 respondent shall designate a new work site monitor for approval by the board or its designee.
2 Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure
3 monthly reports are submitted to the board by the monitor, shall be considered a violation of
4 probation.

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

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

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

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

21 It is a condition of respondent's enrollment in the Pharmacists Recovery Program (PRP)
22 that he is required to have a work site monitor approved by the PRP who shall be responsible for
23 supervising respondent during working hours. Respondent shall be responsible for ensuring that
24 the work site monitor reports in writing to the PRP monthly or on another schedule as directed by
25 the PRP. Should the designated work site monitor suspect at any time during the probationary
26 period that respondent has abused alcohol or drugs, he or she shall notify the PRP immediately.
27 The initial notification shall be made orally within one (1) business day of the occurrence, which
28 shall be followed by written notification within two (2) business days of the occurrence. If, for

1 any reason, including change of employment, respondent is no longer able to be monitored by the
2 approved work site monitor, within ten (10) days of commencing new employment for prior
3 approval by the PRP. Failure to identify an acceptable initial or replacement work site monitor, or
4 to ensure monthly reports are submitted to the PRP by the work site monitor, shall be considered
5 a violation of probation.

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

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

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

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

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

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

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: _____
CHRISTOPHER BLAINE RUTHERFORD
Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,
ROB BONTA
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

MICHAEL M. KARIMI
Deputy Attorney General
Attorneys for Complainant

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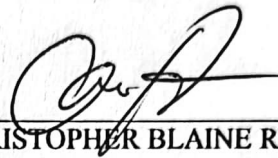
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: _____

11/20/23



CHRISTOPHER BLAINE RUTHERFORD
Respondent

ENDORSEMENT

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

DATED: _____

November 21, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



MICHAEL M. KARIMI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7575

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 MICHAEL M. KARIMI
Deputy Attorney General
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600 West Broadway, Suite 1800
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6 San Diego, CA 92186-5266
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7575

14 **CHRISTOPHER BLAINE RUTHERFORD**
15 **17408 Matinal Rd. #3823**
San Diego, CA 92127

ACCUSATION

16 **Pharmacist License No. RPH 74766**

17 Respondent.

18 **PARTIES**

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

21 2. On or about August 8, 2016, the Board of Pharmacy issued Pharmacist License
22 Number RPH 74766 to Christopher Blaine Rutherford (Respondent). The Pharmacist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 January 31, 2024, unless renewed.

25 **JURISDICTION**

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

1 4. Code section 4011 provides that the Board shall administer and enforce both the
2 Pharmacy Law (Bus. & Prof. Code, § 4000 *et seq.*) and the Uniform Controlled Substances Act
3 (Health & Safety Code, § 11000 *et seq.*).

4 5. Code section 4300, subdivision (a) provides that every license issued by the Board
5 may be suspended or revoked.

6 6. Code section 4300.1 states:

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

13 7. Code section 4307, subdivision (a) states:

14 Any person who has been denied a license or whose license has been revoked
15 or is under suspension, or who has failed to renew his or her license while it was
16 under suspension, or who has been a manager, administrator, owner member, officer,
17 director, associate, or partner of any partnership, corporation, firm, or association
18 whose application for a license has been denied or revoked, is under suspension or
19 has been placed on probation, and while acting as the manger, administrator, owner,
20 member, officer, director, associate, or partner had knowledge or knowingly
21 participated in any conduct for which the license was denied, revoked, suspended, or
22 placed on probation, shall be prohibited from serving as a manger, administrator,
23 owner, member, officer, director, associate, or partner of a licensee as follows:

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

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

STATUTORY PROVISIONS

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

4 9. Section 493 of the Code states in pertinent part:

5 (a) Notwithstanding any other law, in a proceeding conducted by a board within
6 the department pursuant to law to deny an application for a license or to suspend or
7 revoke a license or otherwise take disciplinary action against a person who holds a
8 license, upon the ground that the applicant or the licensee has been convicted of a
9 crime substantially related to the qualifications, functions, and duties of the licensee

1 in question, the record of conviction of the crime shall be conclusive evidence of the
2 fact that the conviction occurred, but only of that fact.

3 (b) (1) Criteria for determining whether a crime is substantially related to the
4 qualifications, functions, or duties of the business or profession the board regulates
5 shall include all of the following:

6 (A) The nature and gravity of the offense.

7 (B) The number of years elapsed since the date of the offense.

8 (C) The nature and duties of the profession.

9 (2) A board shall not categorically bar an applicant based solely on the type of
10 conviction without considering evidence of rehabilitation.

11 10. Code section 4301 states in pertinent part:

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

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

21 ...

22 (l) The conviction of a crime substantially related to the qualifications, functions,
23 and duties of a licensee under this chapter. The record of conviction of a violation of
24 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
25 regulating controlled substances or of a violation of the statutes of this state regulating
26 controlled substances or dangerous drugs shall be conclusive evidence of
27 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
28 evidence only of the fact that the conviction occurred. The board may inquire into the
circumstances surrounding the commission of the crime, in order to fix the degree of
discipline or, in the case of a conviction not involving controlled substances or
dangerous drugs, to determine if the conviction is of an offense substantially related to
the qualifications, functions, and duties of a licensee under this chapter. A plea or
verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
conviction within the meaning of this provision. The board may take action when the
time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
or when an order granting probation is made suspending the imposition of sentence,
irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the
person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting
aside the verdict of guilty, or dismissing the accusation, information, or indictment.

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1769, subdivision (c), states:

When considering the suspension or revocation of a facility or a personal
license on the ground that the licensee has been convicted of a crime, the board will

1 consider whether the licensee made a showing of rehabilitation and is presently fit for
2 a license, if the licensee completed the criminal sentence at issue without a violation
3 of parole or probation. In making this determination, the board will consider the
4 criteria in subdivisions (b)(1)(A) through (E). If the licensee has not completed the
5 criminal sentence at issue without a violation of parole or probation or the board
6 determines that the licensee did not make the showing of rehabilitation based on the
7 criteria in subdivisions (b)(1)(A) through (E), the board will apply the following
8 criteria in evaluating the licensee's rehabilitation:

9 (1) Nature and gravity of the act(s) or offenses.

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or offenses.

12 (4) Whether the licensee has complied with all terms of parole, probation,
13 restitution or any other sanctions lawfully imposed against the licensee.

14 (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.

15 (6) Evidence, if any, of rehabilitation submitted by the licensee, including as
16 provided in the board's Disciplinary Guidelines, identified in section 1760.

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

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

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

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

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

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

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

...

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

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1 **COST RECOVERY**

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(May 11, 2022 Conviction for DUI West Reckless Driving on August 23, 2021)**

8 14. Respondent has subjected his pharmacist license to disciplinary action under Code
9 sections 490 and 4301, subdivision (l), in in that on May 11, 2022, in the case entitled *The People*
10 *of the State of California v. Christopher Blaine Rutherford*, in the Superior Court of California,
11 County of San Diego, Case Number CN430935, Respondent was convicted on his plea of guilty
12 of violating Vehicle Code section 23103(a), per 23103.5 (wet reckless driving), a misdemeanor,
13 and a lesser included offense of Vehicle Code section 23152, subdivision (a). As a result of a
14 plea agreement, counts for violating Vehicle Code sections 23152(a) (driving while under the
15 influence of alcohol), 23152(b) (driving with a blood alcohol concentration of 0.8% or more), and
16 23109(c) (exhibition of speed), misdemeanors, were dismissed. Respondent was placed on
17 summary probation for one year.

18 15. The circumstances underlying the conviction are that on August 23, 2021, officers
19 with the Escondido Police Department performed a traffic stop on Respondent after seeing him
20 burning his tires out for several seconds, leaving visible skid marks on the roadway. During the
21 initial contact with Respondent, officers noticed that he was displaying signs and symptoms of
22 being under the influence of alcohol and they eventually placed Respondent under arrest for
23 violation of Vehicle Code sections 23152(a) and 23109(c). A blood draw was performed and
24 Respondent was booked into the Vista Detention Facility. The blood sample obtained from
25 Respondent was tested, and confirmed a blood alcohol concentration of 0.14 percent, by weight.
26 Testing of the blood sample also detected the drugs Fluoxetine, LC/MS/MS, 70 ng/mL,
27 Norfluoxetine, LC/MS/MS, 149 ng/mL, Diazepam, LC/MS/MS, 9 ng/mL, Nordiazepam,
28 LC/MS/MS, 32 ng/mL, Hydroxyzine, LC/MS/MS, 10 ng/mL, and Cannabinoids, in Respondent's

1 system.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Dangerous Use of Alcohol on August 23, 2021)**

4 16. Respondent has subjected his pharmacist license to disciplinary action under Code
5 section 4301, subdivision (h), because he used alcohol on August 23, 2021, to the extent or in a
6 manner dangerous to himself or to any other person or the public, or to the extent that such use
7 has impaired his ability to conduct with safety to the public the practice authorized by his license,
8 as set forth in paragraphs 14 and 15, which are incorporated here by reference.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 17. Respondent has subjected his pharmacist license to disciplinary action under Code
12 section 4301 for unprofessional conduct based on the conduct set forth in paragraphs 14 through
13 16, which are incorporated here by reference.

14 **OTHER MATTERS**

15 18. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
16 No. RPH 74766 issued to Respondent Christopher Blaine Rutherford, he shall be prohibited from
17 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
18 licensee for five years if his license is placed on probation or until he is reinstated, if it is revoked.

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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 74766 issued to Christopher Blaine Rutherford;

2. Prohibiting Christopher Blaine Rutherford from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any position with management or control of a license for five years if Pharmacist License Number RPH 74766 is placed on probation, or until Pharmacist License Number RPH 74766 is reinstated if it is revoked.

3. Ordering Christopher Blaine Rutherford 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,

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

DATED: September 26, 2023

Sodergren,
Anne@DCA
ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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Anne@DCA
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