



DO NOT FOLD OR STAPLE ABOVE THIS LINE

### Nevada State Board of Pharmacy – Renewal Application - PHARMACIST

431 W Plumb Lane • Reno, NV 89509 • nvbop.com

For the period of November 1, 2017 to October 31, 2019

Money Order ONLY (NO BUSINESS or PERSONAL CHECKS, NO CASH)

\$180.00 (postmarked on or before 10/31/2017) OR \$320.00 (postmarked after 10/31/2017)

LICENSE: 06817

Wayne Earl Dallas  
826 LAKESIDE DR,  
Anderson, SC 29621

Please make any changes to name or address next to the old information

#### RENEW BY MAIL

1. Complete **ALL** sections on this form
2. Sign and date this form
3. Send **NO** with this form (do **NOT** staple)
4. Mail **original** form/payment to address above
5. **NO COPIES**
6. **NO SIGNATURE STAMPS ACCEPTED**

<OR>

#### RENEW ONLINE

1. Go to **nvbop.com**
2. FOLLOW the instructions on the page
3. Once you've successfully completed your license renewal, **you will receive an email with a link to your certificate.** We no longer mail certificates so please do not discard this link.

**Section 1:** Since your last renewal or recent licensure have you: (Please fill in completely) Yes No

- Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or Physical condition that would impair your ability to perform the essential functions of your license?.....  Yes  No
1. Been charged, arrested or convicted of a felony or misdemeanor in any state?.....  Yes  No
  2. Been the subject of a board citation or an administrative action whether completed or pending in any state?.....  Yes  No
  3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?.....  Yes  No

If you marked YES to any of the numbered questions (1-3) above, include the following information & letter of explanation:

Board Administrative Action: <b>VOLUNTARILY LICENSE SURRENDER</b>	State <b>CA</b>	Date: <b>9/20/2016</b>	Case #: <b>5512</b>
Criminal Action: <b>N/A</b>	State	Date: <b>/ /</b>	Case #: <b>/ /</b>
		County	Court

**Section 2:** Are you the subject of a court order for the support of a child?.....  Yes  No  
If you marked YES to the question above, are you in compliance with the court order?.....  Yes  No

#### Section 3: (Fees apply to either status) (see colored insert for details)

By signing below, you certify that you have completed **ALL** required CE Hours due for the 17/19 Renewal period. (Dated from Nov. 1, 15 - Oct. 31, 17; 1.25hrs per mo.). The exemption period is 2yrs after graduation only.  
**OR you may check the box for Inactive if you did NOT complete CE. You cannot renew online if you change to Inactive Inactive.** By checking **this box** you certify that you are **NOT** practicing in NV and do not wish to comply with the CE requirements of NV and would like your license changed to **inactive** status. Before re-activating your license it will be necessary to submit an application and to become compliant with current CE requirements (NAC 639.219). See reverse of insert for more information.

#### Section 4: NON-DISCIPLINARY STATE-MANDATED QUESTIONS

1. Though it is **NOT** required to have, SB21 requires the Board to ask if you have a Nevada State Business license and if you do, please provide the #: \_\_\_\_\_ Leave blank if non-applicable
2. Have you ever served in the military, either active, reserve or retired? Yes  No  Branch: \_\_\_\_\_  
Military Occupation/Specialty: \_\_\_\_\_ Dates of Service: \_\_\_\_\_

**Section 5:** It is a violation of Nevada law to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application, I certify that all statements made are true and correct. I attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. I understand that Nevada law requires a licensed pharmacist who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.

Original Signature: Wayne Earl Dallas Date: 9/23/17

I graduated from Idaho State University in 1976 with a bachelor degree in Pharmacy. I moved back home to California to fulfill my internship requirements and take my board exams. I passed the California board exam in the summer of 1976. Since California does not reciprocate with any other states, I also took and passed the Nevada board exam soon thereafter, for the sake of reciprocity.

I started my career working relief for a few independent pharmacies in Sacramento, and subsequently was made aware of a position at a local independent hospital, American River Hospital. I started as a part-time pharmacist, and progressed into a full time position that I held for 13 years.

In 1989 I became the pharmacy operations coordinator, or supervisor. In this position I supervised the daily operations of the pharmacy, and reported to the director of pharmacy, Dave Beeman.

After a few years, American River Hospital affiliated with Mercy Healthcare Sacramento, a system of various hospitals in the Sacramento region. This affiliation led to a combined management structure with Mercy San Juan Hospital, the affiliate that was geographically closest to American River Hospital. I served as the PIC at American River Hospital during this transition. Through this combined management process, my job was eliminated, and I was offered an opportunity to take over a retail pharmacy operation in a medical clinic in downtown Sacramento.

I served as the PIC for this pharmacy for 7 years beginning in 1996. This was an offsite department of Mercy General Hospital, another of the Mercy Healthcare Sacramento hospitals. During this time I reported to the director of pharmacy for this hospital, Al Schaad, and Mercy Healthcare Sacramento affiliated with a larger hospital group, Catholic Healthcare West. After 7 years, the hospital decided to close this pharmacy for budgetary reasons and even though the pharmacy was profitable, budgets were tight and once again my job was again eliminated.

I chose to leave Catholic Healthcare West at this time, and I pursued a position with a medium sized chain pharmacy organization, Longs Drugs. I took the role of pharmacy manager and PIC at a store that was 10 minutes from my house. After 8 months at this position, I was made aware of a pharmacy supervisor position (PIC) at a retail pharmacy with Catholic Healthcare West in Woodland, CA. I always enjoyed the faith based hospital culture and decided to leave Longs.

I stayed in this position for roughly 10 years. During this time Catholic Healthcare West underwent a name change to Dignity Health. During my tenure as supervisor and PIC the pharmacy outgrew the allocated space twice and moved to a new location with the affiliated medical clinic. Volume grew from 200 to 750 prescriptions per day, hours expanded to 7 days per week. The staff consisted of 5 pharmacists and 10 technicians. We utilized as much automation as possible to achieve this volume, and we were very profitable.

At some point during this time period, a Catholic Healthcare West hospital in another community in California was found to have a serious diversion. As a result the DEA levied fines of approximately 20 million dollars against Catholic Healthcare West.

Catholic Healthcare West subsequently pursued an aggressive campaign to standardize controlled substance operations for all 43 hospitals, affiliated clinics, free standing surgery centers, and retail pharmacies in order to mitigate these fines.

Part of this campaign included a mandate to all retail pharmacies to implement a perpetual inventory system for all controlled substances. We were given roughly 2 months to fulfill this requirement. This was in April of 2013. Given the volume of prescriptions dispensed, at my location, I felt a manual perpetual inventory system would be so time consuming that it would not work. I contacted my software vendor for assistance on this matter. They offered an inventory control module that interfaced with our software program. I asked if this would serve the purposes of a perpetual inventory system. I was assured that it would.

I chose to monitor the perpetual inventory by randomly choosing products to validate the perpetual inventory system. I found discrepancies in many of the products that led me to believe there was a flaw in the inventory system. I documented many of these discrepancies both manually and within the inventory control module, while I tried to discover the nature of the discrepancies, all the while maintaining this prescription volume.

I found that the system would only track one NDC number for each product. In situations where our database included multiple entries for the same NDC, and multiple package size entries, I found that if a prescription was entered into the software using one of these alternate NDC numbers, the data was not recorded in the perpetual inventory. I opted to remove these alternate NDC numbers from the database so that all prescriptions for a given item would be using a single NDC number. I made sure that prescription records were intact and not removed from the software system.

I also found that each claim submission would result in a deduction from inventory. If a prescription was transmitted to an insurance company multiple times on the same day in an effort to get a claim paid, then multiple deductions from the perpetual inventory occurred as well. I tried to eliminate these multiple deductions by deleting the duplications. I was very proud of the hard work and dedication that I put forth to make this pharmacy successful, profitable, and looked up to in the clinic. That pride made me work all the harder to try to fix a faulty inventory system so that it could be relied upon.

When I made my supervisors aware of these issues, we opted for increased security, control and surveillance. We secured all controlled substances in locked cabinets that only pharmacists possessed keys to. We added additional cameras to the surveillance system, and increased to storage capacity of the recordings. We located the surveillance computer in the pharmacy office at the suggestion of the vendor-installer. We double counted all controlled substance prescriptions. I trusted the staff I had worked with for 10 years, some for 30 years. In hindsight, I should have been more vocal with my supervisors about these discrepancies as they occurred.

I worked very hard with internal auditors to pull prescription data from our software system to determine whether or not there was a true discrepancy. At this time, I was relieved of my duties and subsequently terminated by Woodland Healthcare while internal auditors continued their efforts. I was terminated for what was felt to be failure to maintain adequate records, even though I met all state and federal law required records maintenance.

When I received the accusation from the California Board of Pharmacy in May of 2016, I was devastated. My entire 37 year career had come down to this? As I read through the documents I discovered there were three options available to me. The first option presented was license surrender. The second option was to request a hearing before the board, and the third option was a stipulated settlement with the board.

A wise man seeks counsel from many. My first call was to my former director Al Schaad, who now retired, serves as a board member in California. His advice was to not ask for a hearing. He felt the board was unduly harsh to PICs. He also told me that my explanations would fall on deaf ears. He suggested the stipulated settlement was the best option for me.

My next call was to my current supervisor. I felt the need to be transparent with my employer and we talked openly and honestly about these circumstances on several occasions, and continue to do so. We mutually decided the best option for me was to offer to inactivate my license, since I no longer resided in California. I presented this to the board through my legal counsel. The board initially accepted this settlement with several stipulations. They wanted letters from doctors and counselors that testified to my ability to practice. They wanted letters from rehab counselors testifying to my successful completion of a program. They wanted letters of recommendation from my current supervisors and current performance appraisals.

I provided a doctors letter, and several character references from individuals I had worked for and with for the last 30 years. I could not obtain letters from any counselors or rehab counselors since I never attended any rehab programs, simply because, I do not have a substance abuse problem. I provided current performance appraisals from my employer, however Human Resources does not allow supervisors to write letters of recommendation. Despite all my efforts to provide the documentation requested, it became apparent that the Board of Pharmacy would not settle for anything less than my license surrender.

I knew being close to retirement age that I would not return to California for employment. After months of negotiations I grew weary of the fight and opted to surrender my license.

Sincerely,

Wayne Dallas



**BE AWARE AND TAKE CARE:**  
Talk to your pharmacist!  
CALIFORNIA STATE BOARD OF PHARMACY

## BOARD OF PHARMACY

**Licensee Name:** DALLAS WAYNE  
**License Type:** REGISTERED PHARMACIST  
**License Number:** 30680  
**License Status:** CANCELLED Definition  
**Voluntary Surrender Definition**  
**Expiration Date:** March 31, 2015  
**Issue Date:** November 23, 1976  
**Address:** 826 LAKESIDE DR  
**City:** ANDERSON  
**State:** SC  
**Zip:** 29621  
**County:** OUT OF STATE  
**Actions:** Yes

## Related Licenses/Registrations/Permits

No records returned

## Public Disclosure

### Administrative Disciplinary Actions

Current web site information on Board of Pharmacy disciplinary actions only goes as far back as *January 1998* following the effective date of the disciplinary penalty.

Disciplinary actions rendered by the Board and penalties imposed become operative on the effective date of the action except in situations where the licensee obtains a court-ordered stay through the appeal process. This may occur after the publication of the information on this website.

To obtain information prior to January 1998 or for information on specific discipline listed submit a written request to the *State Board of Pharmacy, 1625 N. Market Blvd, Suite N219, Sacramento, CA 95834, Attention Public Records Desk.*

**Case Number:** AC201400551200  
**Description of Action:** BY STIPULATION: THE LICENSE IS VOLUNTARILY SURRENDERED.  
**Effective Date of Action:** November 14, 2016

Public documents relating to this action are available here:

[http://www.pharmacy.ca.gov/enforcement/fy1415/ac145512\\_rph30680](http://www.pharmacy.ca.gov/enforcement/fy1415/ac145512_rph30680)

**This information is updated Monday through Friday - Last updated: OCT-03-2017**

***Disclaimer***

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

In the Matter of the Accusation Against:

**DIGNITY HEALTH dba WOODLAND  
HEALTHCARE PHARMACY  
632 West Gibson  
Woodland, CA 95695**

**Pharmacy Permit No. PHY 45513**

**and**

**WAYNE DALLAS  
826 Lakeside Drive  
Anderson, SC 29621**

**Pharmacist License No. RPH 30680**

Respondents.

Case No. 5512

OAH No. 2016060293

**STIPULATED SURRENDER OF  
LICENSE AND ORDER AS TO  
RESPONDENT WAYNE DALLAS  
ONLY**

**DECISION AND ORDER**

The attached Stipulated Surrender of License and 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 14, 2016.

It is so ORDERED on October 14, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STANTON W. LEE  
Deputy Attorney General  
4 State Bar No. 203563  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-9921  
Facsimile: (916) 324-5567  
7 E-mail: Stanton.Lee@doj.ca.gov  
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **DIGNITY HEALTH dba WOODLAND**  
13 **HEALTHCARE PHARMACY**  
14 **632 West Gibson**  
**Woodland, CA 95695**

15 **Pharmacy Permit No. PHY 45513**

16 **and**

17 **WAYNE DALLAS**  
18 **826 Lakeside Drive**  
**Anderson, SC 29621**

19 **Pharmacist License No. RPH 30680**

20 **Respondents.**

Case No. 5512

OAH No. 2016060293

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER AS TO**  
**RESPONDENT WAYNE DALLAS ONLY**

21  
22  
23 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-  
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
27 She brought this action solely in her official capacity and is represented in this matter by Kamala

28 ///



1 D. Harris, Attorney General of the State of California, by Stanton W. Lee, Deputy Attorney  
2 General.

3 2. Wayne Dallas (Respondent) is represented in this proceeding by attorney William J.  
4 Portanova, whose address is 400 Capitol Mall, Ste. 1100, Sacramento, CA 95814.

5 3. On or about November 23, 1976, the Board issued Pharmacist License No. RPH  
6 30680 to Respondent. The Pharmacist License was in full force and effect at all times relevant to  
7 the charges brought in Accusation No. 5512 and expired on March 31, 2015.

8 **JURISDICTION**

9 4. Accusation No. 5512 was filed before the Board of Pharmacy (Board), Department of  
10 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
11 statutorily required documents were properly served on Respondent on May 6, 2016. Respondent  
12 timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 5512 is  
13 attached as Exhibit A and incorporated by reference.

14 **ADVISEMENT AND WAIVERS**

15 5. Respondent has carefully read, fully discussed with counsel, and understands the  
16 charges and allegations in Accusation No. 5512. Respondent also has carefully read, fully  
17 discussed with counsel, and understands the effects of this Stipulated Surrender of License and  
18 Order.

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

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

27 ///

28 ///

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 5512, agrees that cause exists for discipline and hereby surrenders his Pharmacist License  
4 No. RPH 30680 for the Board's formal acceptance.

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

7 CONTINGENCY

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

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

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

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

28 ///

**ORDER**

1  
2       **IT IS HEREBY ORDERED** that Pharmacist License No. RPH 30680, issued to Respondent  
3 Wayne Dallas, is surrendered and accepted by the Board of Pharmacy.

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

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

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

12       4.     **Respondent may not apply for any license, permit, or registration from the board for**  
13 **three years from the effective date of this decision. Respondent stipulates that should he or she**  
14 **apply for any license from the board on or after the effective date of this decision, all allegations**  
15 **set forth in Accusation No. 5512, shall be deemed to be true, correct and admitted by respondent**  
16 **when the Board determines whether to grant or deny the application. Respondent shall satisfy all**  
17 **requirements applicable to that license as of the date the application is submitted to the Board,**  
18 **including, but not limited to taking and passing the California Pharmacist Licensure Examination**  
19 **prior to the issuance of a new license. Respondent is required to report this surrender as**  
20 **disciplinary action.**

21       5.     **Respondent shall pay the agency its costs of investigation and enforcement in the**  
22 **amount of \$3,000.00, prior to issuance of a new or reinstated license.**

23       6.     **If Respondent should ever apply or reapply for a new license or certification, or**  
24 **petition for reinstatement of a license, by any other health care licensing agency in the State of**  
25 **California, all of the charges and allegations contained in Accusation, No. 5512 shall be deemed**  
26 **to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any**  
27 **other proceeding seeking to deny or restrict licensure.**

28 **///**


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**ACCEPTANCE**

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


DATED: 9/20/16   
WAYNE DALLAS  
Respondent

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

DATED: 9/20/16   
WILLIAM PORTANOVA  
Attorney for Respondent

**ENDORSEMENT**

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

Dated: 9/22/16 Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
KENT D. HARRIS  
Supervising Deputy Attorney General  
  
STANTON W. LEE  
Deputy Attorney General  
Attorneys for Complainant

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12421272.doc

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**Exhibit A**

**Accusation No. 5512**

|

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STANTON W. LEE  
Deputy Attorney General  
4 State Bar No. 203563  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-9921  
Facsimile: (916) 324-5567  
7 E-mail: Stanton.Lee@doj.ca.gov  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5512

12 **DIGNITY HEALTH dba WOODLAND**  
13 **HEALTHCARE PHARMACY**  
14 632 West Gibson  
Woodland, CA 95695

**ACCUSATION**

15 Pharmacy Permit No. PHY 45513

16 and

17 **WAYNE DALLAS**  
18 826 Lakeside Drive  
Anderson, SC 29621

19 Pharmacist License No. RPH 30680

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about March 15, 2002, the Board of Pharmacy issued Pharmacy Permit  
27 Number PHY 45513 to Catholic Healthcare West to do business as Woodland Healthcare  
28 Pharmacy (Respondent Woodland). On or about February 13, 2012, Catholic Healthcare West

1 changed its name to Dignity Health. The Pharmacy Permit was in full force and effect at all times  
2 relevant to the charges brought herein and will expire on March 1, 2016, unless renewed.

3 3. On or about November 23, 1976, the Board of Pharmacy issued Pharmacist License  
4 Number RPH 30680 to Wayne Dallas (Respondent Dallas). Respondent Dallas was pharmacist-  
5 in-charge of Woodland from on or about August 16, 2004 to March 25, 2014. The Pharmacist  
6 License was in full force and effect at all times relevant to the charges brought herein and expired  
7 on March 31, 2015.

8 **JURISDICTION**

9 4. This Accusation is brought before the Board under the authority of the following  
10 laws:

11 **CALIFORNIA BUSINESS AND PROFESSIONS CODE**

12 5. Section 4081 of the Code states in pertinent part:

13 (a) All records of manufacture and of sale, acquisition, receipt, shipment,  
14 or disposition of dangerous drugs or dangerous devices shall be at all times during  
15 business hours open to inspection by authorized officers of the law, and shall be  
16 preserved for at least three years from the date of making. A current inventory shall  
17 be kept by every . . . pharmacy . . . holding a currently valid and unrevoked . . . permit  
18 . . . who maintains a stock of dangerous drugs or dangerous devices.

19 (b) The owner, officer, and partner of a pharmacy . . . shall be jointly  
20 responsible, with the pharmacist-in-charge, responsible manager, or designated  
21 representative-in-charge, for maintaining the records and inventory described in this  
22 section.

23 6. Section 4300 of the Code states in pertinent part:

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

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

28 (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.

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7. Section 4300.1 of the Code 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.

8. Section 4301 of the Code states in pertinent part:

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

- (a) Gross immorality.
- (b) Incompetence.
- (c) Gross negligence.

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

(p) Actions or conduct that would have warranted denial of a license."

9. Section 4113 of the Code states in pertinent part:

(c) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

10. Section 4332 of the Code states:

Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the records within a reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor.

**HEALTH AND SAFETY CODE**

11. Section 11007 of the Code states:

'Controlled substance,' unless otherwise specified, means a drug, substance, or immediate precursor which is listed in any schedule in Section 11054, 11055, 11056, 11057, or 11058.



1 12. The following drugs, audited during the inspection subject of this accusation, are  
2 Scheduled II controlled substances under section 11055 of the Code:

- 3 (a) hydrocodone/acetaminophen<sup>1</sup> (an opioid based narcotic);  
4 (b) "Opana," a brand of oxymorphone (an opioid based narcotic);  
5 (c) hydromorphone (an opioid based narcotic);  
6 (d) fentanyl (an opioid based narcotic);  
7 (e) methylphenidate (a stimulant);  
8 (f) methadone (an opioid based narcotic).

9 **CALIFORNIA CODE OF REGULATIONS**

10 13. Title 16, section 1707.2 states in pertinent part:

11 (a) A pharmacist shall provide oral consultation to his or her patient or the  
12 patient's agent in all care settings:

13 (1) upon request; or

14 (2) whenever the pharmacist deems it warranted in the exercise of his or  
her professional judgment.

15 (b)(1) In addition to the obligation to consult set forth in subsection (a), a  
16 pharmacist shall provide oral consultation to his or her patient or the patient's agent in  
any care setting in which the patient or agent is present:

17 (A) whenever the prescription drug has not previously been dispensed to a  
18 patient; or

19 (B) whenever a prescription drug not previously dispensed to a patient in  
the same dosage form, strength or with the same written directions, is dispensed by  
20 the pharmacy.

21 14. Title 16, section 1714 states in pertinent part:

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

24 ...  
25 (d) Each pharmacist while on duty shall be responsible for the security of  
the prescription department, including provisions for effective control against theft or  
26 diversion of dangerous drugs and devices, and records for such drugs and devices.

27 <sup>1</sup> At the time of the audit, hydrocodone/acetaminophen was a Schedule III Controlled  
28 Substance under Health and Safety Code section 11056(e)(4).

1 Possession of a key to the pharmacy where dangerous drugs and controlled substances  
2 are stored shall be restricted to a pharmacist.

3 15. Title 16, section 1718 states in pertinent part:

4 'Current Inventory' as used in Sections 4081 and 4332 of the Business  
5 and Professions Code shall be considered to include complete accountability for all  
6 dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

7 **CODE OF FEDERAL REGULATIONS**

8 16. Title 21, Code of Federal Regulations, section 1304.03, subdivision (a), states:

9 Every registrant, including collectors, shall maintain the records and  
10 inventories and shall file the reports required by this part, except as exempted by this  
11 section. Any registrant that is authorized to conduct other activities without being  
12 registered to conduct those activities, pursuant to §§ 1301.22(b), 1307.11, 1307.13, or  
13 part 1317 of this chapter, shall maintain the records and inventories and shall file the  
14 reports required by this part for persons registered or authorized to conduct such  
15 activities. This latter requirement should not be construed as requiring stocks of  
16 controlled substances being used in various activities under one registration to be  
17 stored separately, nor that separate records are required for each activity. The intent of  
18 the Administration is to permit the registrant to keep one set of records which are  
19 adapted by the registrant to account for controlled substances used in any activity.  
20 Also, the Administration does not wish to require separate stocks of the same  
21 substance to be purchased and stored for separate activities. Otherwise, there is no  
22 advantage gained by permitting several activities under one registration. Thus, when a  
23 researcher manufactures a controlled item, he must keep a record of the quantity  
24 manufactured; when he distributes a quantity of the item, he must use and keep  
25 invoices or order forms to document the transfer; when he imports a substance, he  
26 keeps as part of his records the documentation required of an importer; and when  
27 substances are used in chemical analysis, he need not keep a record of this because  
28 such a record would not be required of him under a registration to do chemical  
analysis. All of these records may be maintained in one consolidated record system.  
Similarly, the researcher may store all of his controlled items in one place, and every  
two years take inventory of all items on hand, regardless of whether the substances  
were manufactured by him, imported by him, or purchased domestically by him, of  
whether the substances will be administered to subjects, distributed to other  
researchers, or destroyed during chemical analysis.

17. Title 21, Code of Federal Regulations, section 1304.11 states, in pertinent part:

(a) General requirements. Each inventory shall contain a complete and  
accurate record of all controlled substances on hand on the date the inventory is taken,  
and shall be maintained in written, typewritten, or printed form at the registered  
location. An inventory taken by use of an oral recording device must be promptly  
transcribed. Controlled substances shall be deemed to be "on hand" if they are in the  
possession of or under the control of the registrant, including substances returned by a  
customer, ordered by a customer but not yet invoiced, stored in a warehouse on behalf  
of the registrant, and substances in the possession of employees of the registrant and  
intended for distribution as complimentary samples. A separate inventory shall be  
made for each registered location and each independent activity registered, except as  
provided in paragraph (e)(4) of this section. In the event controlled substances in the  
possession or under the control of the registrant are stored at a location for which

1 he/she is not registered, the substances shall be included in the inventory of the  
2 registered location to which they are subject to control or to which the person  
3 possessing the substance is responsible. The inventory may be taken either as of  
4 opening of business or as of the close of business on the inventory date and it shall be  
5 indicated on the inventory.

6 . . . .

7 (c) Biennial inventory date. After the initial inventory is taken, the  
8 registrant shall take a new inventory of all stocks of controlled substances on hand at  
9 least every two years. The biennial inventory may be taken on any date which is  
10 within two years of the previous biennial inventory date . . .

11 18. Title 21, Code of Federal Regulations, section 1304.21 states, in pertinent part:

12 (a) Every registrant required to keep records pursuant to § 1304.03 shall  
13 maintain, on a current basis, a complete and accurate record of each substance  
14 manufactured, imported, received, sold, delivered, exported, or otherwise disposed of  
15 by him/her, and each inner liner, sealed inner liner, and unused and returned mail-  
16 back package, except that no registrant shall be required to maintain a perpetual  
17 inventory.

18 . . . .

19 (d) In recording dates of receipt, importation, distribution, exportation,  
20 other transfers, or destruction, the date on which the controlled substances are actually  
21 received, imported, distributed, exported, otherwise transferred, or destroyed shall be  
22 used as the date of receipt, importation, distribution, exportation, transfer, or  
23 destruction (e.g., invoices, packing slips, or DEA Form 41) . . .

24 19. Title 21, Code of Federal Regulations, section 1305.13, subdivision (e), states that  
25 “[t]he purchaser must record on Copy 3 of the DEA Form 222 the number of commercial or bulk  
26 containers furnished on each item and the dates on which the containers are received by the  
27 purchaser.”

#### 28 COST RECOVERY

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

#### BACKGROUND

21. On or about April 4, 2014, the board received a letter from the Pharmacy Director of  
Respondent Woodland indicating that during routine audits it was discovered the pharmacy was  
missing 21,839 tablets of hydrocodone/acetaminophen 10mg tablets.

1           22. On or about April 7, 2014, L.M., Enforcement Analyst with the Board requested  
2 additional documentation of the loss from Respondent Woodland. On or about May 5, 2014, the  
3 Board received audit documentation, statements, and interview summaries from an attorney  
4 representing Woodland.

5           23. On or about December 10, 2014, Board Inspectors J.H. and P.P.S. conducted an  
6 inspection at Respondent Woodland. During the inspection, the Board Inspectors observed  
7 Technician G.S. helping at least three patients with new prescriptions and technician G.S. did not  
8 inform a pharmacist of the need for new prescription consultations.

9           24. Inspector J.H. spoke extensively with D.F., Pharmacy Director of Respondent  
10 Woodland. D.F. advised that Respondent Woodland had terminated the previous Pharmacist in  
11 Charge (PIC), Respondent Wayne Dallas. The new PIC at the time of the inspection was M.K.,  
12 who had been PIC for approximately one month. D.F. advised that as a result of the missing  
13 hydrocodone/acetaminophen, Respondent Woodland hired outside consultant B.D. and outside  
14 company CHAN Healthcare.

15           25. On April 25, 2014, CHAN issued a report noting Respondent Dallas:

16           1. Had the ability to reject key controls and processes built into the inventory tracking  
17 system;

18           2. Inadequately placed security cameras in the pharmacy and directed those security  
19 camera feeds to his office;

20           3. Could manipulate the inventory tracking system by deleting National Drug Codes  
21 from the inventory history;

22           4. Allowed staff and others to use his passwords and failed to require staff to not  
23 share passwords;

24           5. Did not implement a pharmacy server back-up procedure; and

25           6. Allowed untraceable access to the controlled substance inventory.

26           26. The CHAN report identified six areas of concern needing correction:

27           1. Respondent Woodland failed to fully utilize the Pharmacy Inventory Management  
28 System;

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- 2. Respondent Woodland failed to adequately segregate the duties of the employees;
- 3. Respondent Dallas was able to delete National Drug Codes, purchase, and dispensing history from the inventory tracking system;
- 4. Employee passwords were not secure;
- 5. Respondent Woodland's computer server did not have a back-up; and
- 6. Respondent Woodland's pharmacy and controlled substances access was not logged.

27. On June 23, 2014, CHAN conducted an unannounced audit at Respondent Woodland to test controlled substance diversion monitoring and reporting. During the audit, two issues were identified:

- 1. There was an inability to identify discrepancies because Respondent Woodland's inventory was not adjusted after the recently identified loss making it impossible to identify current discrepancies needing to be researched, resolved, and/or reported; and
- 2. The Controlled Substance Compliance Audit Checklist was incomplete.

28. On March 25, 2015, Inspector J.H. conducted a phone interview of Respondent Dallas.

29. On March 30, 2015, Inspector J.H. completed her audit of Respondent Woodland that covered May 21, 2012 to November 9, 2014. The audit revealed drug losses for 11 of the 18 controlled substances audited. The most significant loss was the hydrocodone/acetaminophen 10/325mg with 21,559 tablets missing followed by methadone 5mg with 2,502 tablets missing and methylphenidate 10mg with 430 tablets missing.

	<u>Drug and Dosage</u>	<u>Shortage</u>	<u>Overage</u>
1			
2	hydrocodone/acetaminophen 10/325mg	21,559 tablets	
3	Opana ER 20mg	185 tablets	
	hydromorphone 2mg	166 tablets	
4	hydromorphone 4mg	83 tablets	
	hydromorphone 8mg	488 tablets	
5	fentanyl 12mcg	11 patches	
6	fentanyl 75mcg	3 patches	
	fentanyl 100mcg	2 patches	
7	methylphenidate 10mg	27 tablets	
8	methylphenidate 20mg	430 tablets	
	methadone 5mg	2,502 tablets	
9	hydrocodone/acetaminophen 5/325mg		1,579 tablets
10	Opana ER 5mg		20 tablets
11	Opana ER 40mg		99 tablets
	fentanyl 25mcg		35 patches
12	fentanyl 50mcg		6 patches
	methylphenidate 5mg		3 tablets
13	methadone 10mg		1,424 tablets

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30. One source of error was the beginning inventory conducted by Respondent Dallas who did not provide exact counts for each medication. Instead, counts were estimated with full bottles, half bottles, quarter bottles, and tenths of a bottle. The variance could be incorrect depending on how far off the estimation was at the beginning of the inventory.

**FIRST CAUSE FOR DISCIPLINE**

**(Woodland Healthcare Pharmacy - Failure to Provide Consultation)**

31. Respondent Woodland's pharmacy permit is subject to disciplinary action under California Code of Regulations, title 16, section 1707.2 in that Woodland failed to ensure patients with new prescriptions were provided with a pharmacist consult. The circumstances are as follows:

32. On or about December 10, 2014, during an inspection of Woodland, Technician G.S. failed to notify a pharmacist of three patients filling new prescriptions as described in Paragraph 23 above.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Woodland Healthcare Pharmacy – Failure to Maintain Adequate**  
3 **Operational Standards and Security of Controlled Substances)**

4 33. Respondent Woodland's pharmacy permit is subject to disciplinary action under  
5 California Code of Regulations, title 16, section 1714(b) in that Woodland failed to maintain its  
6 facilities, space, fixtures, and equipment so that drugs are properly prepared, maintained, secured  
7 and distributed. The circumstances are as follows:

8 34. On March 30, 2015, Inspector Hall completed her Woodland audit that covered May  
9 21, 2012 to November 9, 2014. Results of the audit revealed Woodland could not account for  
10 shortages in 11 of the 18 controlled substances audited during the inspection period as described  
11 in Paragraphs 21-25 above.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Woodland Healthcare Pharmacy – Failure to Maintain Current Inventory)**

14 35. Respondent Woodland's pharmacy permit is subject to disciplinary action under  
15 California Code of Regulations, title 16, section 1718, and Business and Professions Code section  
16 4081, subsection (a), in that Woodland failed to maintain a current inventory that included  
17 complete accountability for all controlled substances and dangerous drugs handled by every  
18 licensee. Respondent Woodland's pharmacy permit is also subject to disciplinary action under  
19 California Code of Regulations, title 16, section 1714, Business and Professions Code section  
20 4301, California Code of Regulations, title 21, sections 1304.03 and 1304.11, and Code of  
21 Federal Regulations, title 21, sections 1304.03, 1304.11, and 1304.21, in that Respondent  
22 Woodland failed to maintain adequate security and proper inventory records relating to controlled  
23 substances. The circumstances are as follows:

24 36. On March 30, 2015, Inspector Hall completed her Woodland audit that covered May  
25 21, 2012 to November 9, 2014. Results of the audit revealed Woodland could not account for  
26 shortages in 11 of the 18 controlled substances audited during the inspection period as described  
27 in Paragraphs 21-25 above.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(PIC Wayne Dallas – Failure to Maintain Adequate Operational**  
3 **Standards and Security of Controlled Substances)**

4 37. Respondent Wayne Dallas's pharmacist license is subject to disciplinary action under  
5 Business and Professions Code, section 4113 in that as PIC, Respondent Dallas was responsible  
6 for the pharmacy's compliance with all state and federal laws and regulations pertaining to the  
7 practice of pharmacy and Respondent Dallas failed to maintain adequate operational standards  
8 and security of controlled substances. The circumstances are as follows:

9 38. Based on Respondent Woodland's own internal audit completed by CHAN and  
10 Inspector J.H.'s audit from May 21, 2012 to November 9, 2014, an interview with Respondent  
11 Dallas, and an inspection on 12/10/14, it was determined that Respondent Woodland and  
12 Respondent Dallas did not have effective controls against theft or diversion of controlled  
13 substances including employees sharing passcodes and computers, the ability to delete National  
14 Drug Codes from the inventory system, multiple manual adjustments of inventory, and inaccurate  
15 or incomplete biennial inventories as described in Paragraphs 21-25 above.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(PIC Wayne Dallas – Failure to Maintain Current Inventory)**

18 39. Respondent Dallas's pharmacist license is subject to disciplinary action under  
19 California Code of Regulations, title 16, section 1718, and Business and Professions Code section  
20 4081, subsection (a), in that as PIC, Respondent Dallas failed to maintain a current inventory that  
21 included complete accountability for all controlled substances and dangerous drugs handled by  
22 every licensee. Respondent Dallas's pharmacist license is also subject to disciplinary action  
23 under California Code of Regulations, title 16, section 1714, Business and Professions Code  
24 section 4301, California Code of Regulations, title 21, sections 1304.03 and 1304.11, and Code of  
25 Federal Regulations, title 21, sections 1304.03, 1304.11, and 1304.21, in that Respondent Dallas  
26 failed to maintain adequate security and proper inventory records relating to controlled  
27 substances. The circumstances are as follows:



1 40. On March 30, 2015, Inspector J.H. completed her audit of Respondent Woodland that  
 2 covered May 21, 2012 to November 9, 2014, where Respondent Dallas was the PIC at the time.  
 3 Results of the audit revealed Respondent Woodland could not account for shortages in 11 of the  
 4 18 controlled substances audited during the inspection period as described in Paragraphs 21-25  
 5 above.

6 PRAYER

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

- 9 1. Revoking or suspending Pharmacy Permit Number PHY 45513, issued to Dignity  
 10 Health dba Woodland Healthcare Pharmacy;  
 11 2. Revoking or suspending Original Pharmacist License Number RPH 30680, issued to  
 12 Wayne Dallas;  
 13 3. Ordering Dignity Health dba Woodland Healthcare Pharmacy and Wayne Dallas to  
 14 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,  
 15 pursuant to Business and Professions Code section 125.3; and  
 16 4. Taking such other and further action as deemed necessary and proper.  
 17

18  
 19  
 20 DATED: 4/20/16 Virginia Herold  
 21 VIRGINIA HEROLD  
 22 Executive Officer  
 23 Board of Pharmacy  
 24 Department of Consumer Affairs  
 25 State of California  
 26 Complainant  
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DO NOT FOLD OR STAPLE ABOVE THIS LINE

### Nevada State Board of Pharmacy – Renewal Application - PHARMACIST

431 W Plumb Lane • Reno, NV 89509 • nvbop.com

For the period of November 1, 2017 to October 31, 2019

**Money Order ONLY** (NO BUSINESS or PERSONAL CHECKS, NO CASH)

\$180.00 (postmarked on or before 10/31/2017) **OR** \$320.00 (postmarked after 10/31/2017)

LICENSE: 05322

**Joel Bernard Soburn**  
21702 OCEAN VISTA DR #G,  
Laguna Beach, CA 92651

Please make any changes to name or address next to the old information

#### RENEW BY MAIL

1. Complete **ALL** sections on this form
2. Sign and date this form
3. Send **MO** with this form (do **NOT** staple)
4. Mail **original** form/payment to address above
5. **NO COPIES**
6. **NO SIGNATURE STAMPS ACCEPTED**

<OR>

#### RENEW ONLINE

1. **Go to nvbop.com**
2. FOLLOW the instructions on the page
3. Once you've successfully completed your license renewal, **you will receive an email with a link to your certificate.** We no longer mail certificates so please do not discard this link.

**Section 1:** Since your last renewal or recent licensure have you: (Please fill in completely) Yes No

**Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or Physical condition that would impair your ability to perform the essential functions of your license?**.....  Yes  No

1. Been charged, arrested or convicted of a felony or misdemeanor in any state? .....  Yes  No
2. Been the subject of a board citation or an administrative action whether completed or pending in any state?.....  Yes  No
3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?.....  Yes  No

**If you marked YES to any of the numbered questions (1-3) above, include the following information & letter of explanation:**

Board Administrative Action:		State	Date:	Case #:	
		CA	1/11/17	AC5558	
Criminal Action:	State	Date:	Case #:	County	Court
		+/+			

**Section 2:** Are you the subject of a court order for the support of a child?.....  Yes  No  
IF you marked YES to the question above, are you in compliance with the court order?.....  Yes  No

#### Section 3: (Fees apply to either status) (see colored insert for details)

By signing below, you certify that you have completed **ALL** required CE Hours due for the 17/19 Renewal period. (Dated from Nov. 1, 15 – Oct. 31, 17: 1.25hrs per mo.). The exemption period is 2yrs after graduation only.  
**OR you may check the box for Inactive if you did NOT complete CE** You cannot renew online if you change to Inactive  
**Inactive** -  By checking this box you certify that you are **NOT** practicing in NV and do not wish to comply with the CE requirements of NV and would like your license changed to **inactive** status. Before re-activating your license it will be necessary to submit an application and to become compliant with current CE requirements (NAC 639.219). See reverse of insert for more information.

#### Section 4: NON-DISCIPLINARY STATE-MANDATED QUESTIONS

1. Though it is **NOT** required to have, SB21 requires the Board to ask if you have a Nevada State Business license and if you do, please provide the #: \_\_\_\_\_ Leave blank if non-applicable
2. Have you ever served in the military, either active, reserve or retired? Yes  No  Branch: \_\_\_\_\_  
Military Occupation/Specialty: \_\_\_\_\_ Dates of Service: \_\_\_\_\_

**Section 5:** It is a violation of Nevada law to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application. I certify that all statements made are true and correct. I attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. I understand that Nevada law requires a licensed pharmacist who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.  
Original Signature: \_\_\_\_\_ Date: 1/16/17

## **OVERVIEW**

**I was the Pharmacist In Charge (PIC) at Trinity Mission Pharmacy from approximately 2/1/2014 to 7/12/2014.**

**On 7/1/14, with the help of my assistant Kim Tran, I discovered that the owners of the pharmacy, Trina Trinh Tran and Ngoc Minh Ho, had illegally diverted approximately 100,000 control medications during the previous 2 years.**

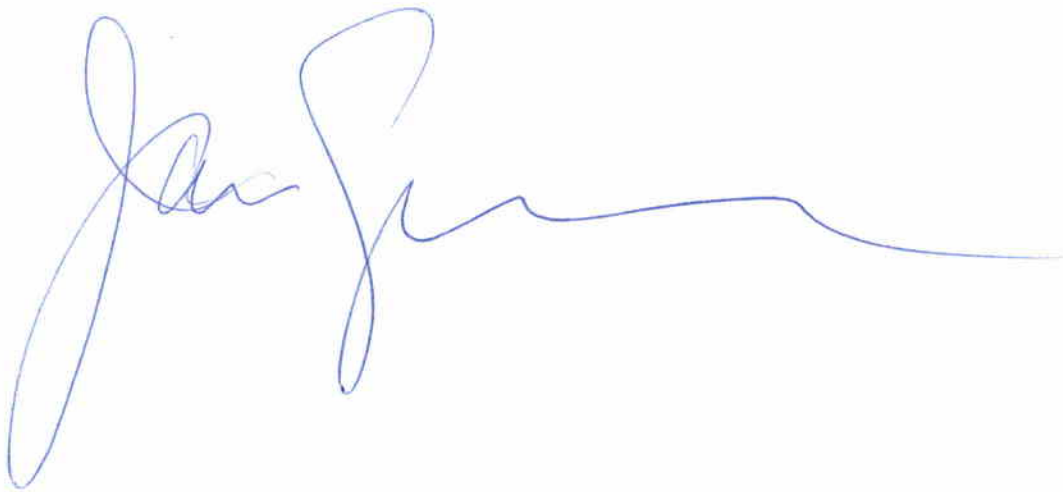
**It was proven that they committed this "crime" on the days when I was not present. When confronted, they admitted to stealing the medications. I notified the State Board of Pharmacy and the D.E.A. immediately. I decided that could no longer work for them.**

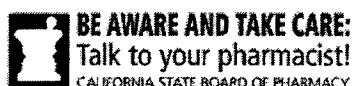
**An investigation pursued over the next 2 years. Ultimately, the case culminated in November of 2016. The owners, Trina Tran and Ngoc Minh Ho, knowing that they were guilty, surrendered their pharmacy license for Trinity Mission Pharmacy in Fountain Valley, California. Ms. Ho was in pharmacy school in her senior year, at the time, and was not granted her intern pharmacy license. Documentation shows that she was in possession of the medications in question.**

**I suffered a tremendous humiliation, along with a large financial responsibility to defend myself to the State Board of Pharmacy, along with other sanctions. My lawyer showed**

**that I did nothing wrong. I have the paperwork with me showing these facts to be true. The State Board of Pharmacy chose to still hold me responsible, for not having discovered this crime sooner and chose to "shoot the messenger!"**

**The financial responsibility that I suffered includes: monies paid to my attorney, a requirement to take an ethics course, and money to be paid to the State Board of Pharmacy. The total for these 3 items, alone, is \$16,022.35. I also have suffered the fact that I have lost 1 day/week of work at my present employment for the next 5 years. This alone amounts to \$124,800, for the next 5 years, due to me being put on probation by the Pharmacy Board.**

A handwritten signature in blue ink, appearing to read "Jan J.", with a long horizontal flourish extending to the right.



## BOARD OF PHARMACY

**Licensee Name:** SOBURN JOEL BERNARD  
**License Type:** REGISTERED PHARMACIST  
**License Number:** 26296  
**License Status:** Probation or practice restriction Definition  
Probation Definition  
**Expiration Date:** July 31, 2019  
**Issue Date:** August 05, 1969  
**Address:** 21702 OCEAN VISTA DRIVE # G  
**City:** LAGUNA BEACH  
**State:** CA  
**Zip:** 92651  
**County:** ORANGE  
**Actions:** Yes

## Related Licenses/Registrations/Permits

No records returned

## Public Disclosure

### Administrative Disciplinary Actions

Current web site information on Board of Pharmacy disciplinary actions only goes as far back as *January 1998* following the effective date of the disciplinary penalty.

Disciplinary actions rendered by the Board and penalties imposed become operative on the effective date of the action except in situations where the licensee obtains a court-ordered stay through the appeal process. This may occur after the publication of the information on this website.

To obtain information prior to January 1998 or for information on specific discipline listed submit a written request to the *State Board of Pharmacy, 1625 N. Market Blvd, Suite N219, Sacramento, CA 95834, Attention Public Records Desk.*

**Case Number:** AC201500555800  
**Description of Action:** BY STIPULATION: LICENSE REVOKED, REVOCATION STAYED, 5 YEARS PROBATION SUBJECT TO THE TERMS AND CONDITIONS IN THE DECISION.  
**Effective Date of Action:** January 11, 2017

Public documents relating to this action are available here:

[http://www.pharmacy.ca.gov/enforcement/fy1516/ac155558\\_rph26296](http://www.pharmacy.ca.gov/enforcement/fy1516/ac155558_rph26296)

**This information is updated Monday through Friday - Last updated: OCT-02-2017**

***Disclaimer***

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

In the Matter of the Accusation Against:

TRINITY MISSION PHARMACY, INC.,  
TRINA TRINH TRAN AND NGOC MINH  
HO, OWNERS  
16569 Brookhurst St.  
Fountain Valley, CA 92708

Pharmacy Permit No. PHY 50434

JOEL BERNARD SOBURN  
27122 Ocean Vista Drive, A  
Laguna Beach, CA 92651

Pharmacist License No. RPH 26296

Respondents.

Case No. 5558

OAH No. 2016040064

STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER AS TO JOEL  
BERNARD SOBURN ONLY

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 January 11, 2017.

It is so ORDERED on December 12, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
4 State Bar No. 126461  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9429  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12  
13 **TRINITY MISSION PHARMACY, INC.,**  
**TRINA TRINH TRAN AND NGOC MINH**  
14 **HO, OWNERS**  
16569 Brookhurst St.  
15 Fountain Valley, CA 92708  
  
16 Pharmacy Permit No. PHY 50434  
  
17 **JOEL BERNARD SOBURN**  
27122 Ocean Vista Drive, A  
18 Laguna Beach, CA 92651  
  
19 Pharmacist License No. RPH 26296  
20 Respondents.

Case No. 5558  
OAH No. 2016040064  
**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER AS TO JOEL  
BERNARD SOBURN ONLY**

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

24 PARTIES

25 1. Virginia K. Herold (Complainant) is the Executive Officer of the Board of Pharmacy  
26 (Board). She brought this action solely in her official capacity and is represented in this matter by  
27 Kamala D. Harris, Attorney General of the State of California, by Desiree I. Kellogg, Deputy  
28 Attorney General.



1 2. Respondent Joel Bernard Soburn (Respondent) is represented in this proceeding by  
2 attorney Herbert L. Weinberg of Fenton Law Group, LLP, whose address is: 1990 S. Bundy  
3 Drive, Suite 777, Los Angeles, CA 90025.

4 3. On or about August 5, 1969, the Board issued Pharmacist License No. RPH 26296 to  
5 Joel Bernard Soburn (Respondent). The Pharmacist License was in full force and effect at all  
6 times relevant to the charges brought in Accusation No. 5558, and will expire on July 31, 2017,  
7 unless renewed.

8 JURISDICTION

9 4. Accusation No. 5558 was filed before the Board, and is currently pending against  
10 Respondent. The Accusation and all other statutorily required documents were properly served  
11 on Respondent on March 3, 2016. Respondent timely filed his Notice of Defense contesting the  
12 Accusation.

13 5. A copy of Accusation No. 5558 is attached as exhibit A and incorporated herein by  
14 reference.

15 ADVISEMENT AND WAIVERS

16 6. Respondent has carefully read, fully discussed with counsel, and understands the  
17 charges and allegations in Accusation No. 5558. Respondent has also carefully read, fully  
18 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
19 Order.

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

26 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
27 every right set forth above.  
28

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation  
3 No. 5558, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist  
4 License.

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

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

11 CONTINGENCY

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

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

24 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
25 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
26 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
27 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
28

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
2 writing executed by an authorized representative of each of the parties.

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Pharmacist License No. RPH 26296 issued to Respondent  
8 Joel Bernard Soburn is revoked. However, the revocation is stayed and Respondent is placed on  
9 probation for five (5) years on the following terms and conditions.

10 1. **Obey All Laws**

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

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

- 14 • an arrest or issuance of a criminal complaint for violation of any provision of the  
15 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
16 substances laws
- 17 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
18 criminal complaint, information or indictment
- 19 • a conviction of any crime
- 20 • discipline, citation, or other administrative action filed by any state or federal agency  
21 which involves respondent's pharmacist license or which is related to the practice of  
22 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging  
23 for any drug, device or controlled substance.

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

25 2. **Report to the Board**

26 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
27 designee. The report shall be made either in person or in writing, as directed. Among other  
28 requirements, respondent shall state in each report under penalty of perjury whether there has

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

6 **3. Interview with the Board**

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

12 **4. Cooperate with Board Staff**

13 Respondent shall cooperate with the board's inspection program and with the board's  
14 monitoring and investigation of respondent's compliance with the terms and conditions of his  
15 probation. Failure to 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. Notice to Employers**

20 During the period of probation, respondent shall notify all present and prospective  
21 employers of the decision in case number 5558 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 fifteen (15) days of  
24 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
25 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
26 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
27 individual(s) has/have read the decision in case number 5558, and terms and conditions imposed  
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1 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
2 submit timely acknowledgment(s) to the board.

3 If respondent works for or is employed by or through a pharmacy employment service,  
4 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity  
5 licensed by the board of the terms and conditions of the decision in case number 5558 in advance  
6 of the respondent commencing work at each licensed entity. A record of this notification must be  
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
9 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
10 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
11 report to the board in writing acknowledging that he has read the decision in case number 5558  
12 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
13 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

14 Failure to timely notify present or prospective employer(s) or to cause that/those  
15 employer(s) to submit timely acknowledgments to the board shall be considered a violation of  
16 probation.

17 "Employment" within the meaning of this provision shall include any full-time,  
18 part-time, temporary, relief or pharmacy management service as a pharmacist or any  
19 position for which a pharmacist license is a requirement or criterion for employment,  
20 whether the respondent is an employee, independent contractor or volunteer.

21 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**  
22 **Designated Representative-in-Charge, or Serving as a Consultant**

23 During the period of probation, respondent shall not supervise any intern pharmacist, be the  
24 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board  
25 nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
26 unauthorized supervision responsibilities shall be considered a violation of probation.

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1           8.    **Reimbursement of Board Costs**

2           As a condition precedent to successful completion of probation, respondent shall pay to the  
3 board its costs of investigation and prosecution in the amount of \$3,775.35. Respondent shall  
4 make said payments in a payment plan to be approved by the Board.

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

8           The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
9 reimburse the board its costs of investigation and prosecution.

10          9.    **Probation Monitoring Costs**

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

15          10.   **Status of License**

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

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

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

24          Following the effective date of this decision, should respondent cease practice due to  
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
26 respondent may tender his license to the board for surrender. The board or its designee shall have  
27 the discretion whether to grant the request for surrender or take any other action it deems  
28 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent

1 will no longer be subject to the terms and conditions of probation. This surrender constitutes a  
2 record of discipline and shall become a part of the respondent's license history with the board.

3       Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to  
4 the board within ten (10) days of notification by the board that the surrender is accepted.

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

9       **12. Notification of a Change in Name, Residence Address, Mailing Address or**  
10 **Employment**

11       Respondent shall notify the board in writing within ten (10) days of any change of  
12 employment. Said notification shall include the reasons for leaving, the address of the new  
13 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
14 shall further notify the board in writing within ten (10) days of a change in name, residence  
15 address, mailing address, or phone number.

16       Failure to timely notify the board of any change in employer(s), name(s), address(es), or  
17 phone number(s) shall be considered a violation of probation.

18       **13. Tolling of Probation**

19       Except during periods of suspension, respondent shall, at all times while on probation, be  
20 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any  
21 month during which this minimum is not met shall toll the period of probation, i.e., the period of  
22 probation shall be extended by one month for each month during which this minimum is not met.  
23 During any such period of tolling of probation, respondent must nonetheless comply with all  
24 terms and conditions of probation.

25       Should respondent, regardless of residency, for any reason (including vacation) cease  
26 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,  
27 respondent must notify the board in writing within ten (10) days of the cessation of practice, and  
28

1 must further notify the board in writing within ten (10) days of the resumption of practice. Any  
2 failure to provide such notification(s) shall be considered a violation of probation.

3 It is a violation of probation for respondent's probation to remain tolled pursuant to the  
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
5 exceeding thirty-six (36) months.

6 "Cessation of practice" means any calendar month during which respondent is  
7 not practicing as a pharmacist for at least 40 hours, as defined by Business and  
8 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
9 month during which respondent is practicing as a pharmacist for at least 40 hours as a  
10 pharmacist as defined by Business and Professions Code section 4000 et seq.

#### 11 14. Violation of Probation

12 If a respondent has not complied with any term or condition of probation, the board shall  
13 have continuing jurisdiction over respondent, and probation shall automatically be extended, until  
14 all terms and conditions have been satisfied or the board has taken other action as deemed  
15 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
16 to impose the penalty that was stayed.

17 If respondent violates probation in any respect, the board, after giving respondent notice  
18 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
19 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
20 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
21 a petition to revoke probation or an accusation is filed against respondent during probation, the  
22 board shall have continuing jurisdiction and the period of probation shall be automatically  
23 extended until the petition to revoke probation or accusation is heard and decided.

#### 24 15. Completion of Probation

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

#### 27 16. Remedial Education

28 Within sixty (60) days of the effective date of this decision, respondent shall submit to the



1 board or its designee, for prior approval, an appropriate program of remedial education related to  
2 pharmacy security, recordkeeping, inventory reconciliation, role of a pharmacist-in-charge and  
3 Pharmacy Law. The program of remedial education shall consist of at least 6 hours per year of  
4 probation at respondent's own expense in the area of pharmacy security, recordkeeping, inventory  
5 reconciliation, role of a pharmacist-in-charge and Pharmacy Law. All remedial education shall be  
6 in addition to, and shall not be credited toward, continuing education (CE) courses used for  
7 license renewal purposes.

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

12 Following the completion of each course, the board or its designee may require the  
13 respondent, at his own expense, to take an approved examination to test the respondent's  
14 knowledge of the course. If the respondent does not achieve a passing score on the examination,  
15 this failure shall be considered a violation of probation. Any such examination failure shall  
16 require respondent to take another course approved by the board in the same subject area.

17 **17. No Ownership of Licensed Premises**

18 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
19 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
20 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
21 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
22 days following the effective date of this decision and shall immediately thereafter provide written  
23 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
24 documentation thereof shall be considered a violation of probation.

25 **18. Ethics Course**

26 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll  
27 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.  
28 Failure to initiate the course during the first year of probation, and complete it within the second

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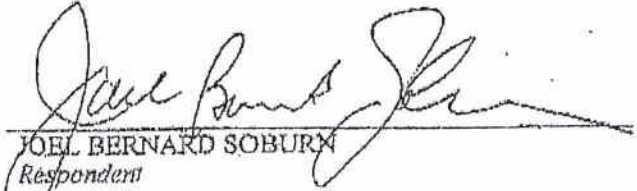
year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the board or its designee within five days after completing the course. The ethics course shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg. 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.

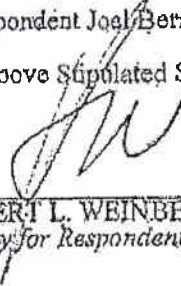
DATED: 10/21/2016

  
JOEL BERNARD SOBURN  
*Respondent*

I have read and fully discussed with Respondent Joel Bernard Soburn the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

I approve its form and content.

DATED: 10/21/2016

  
HERBERT L. WEINBERG  
*Attorney for Respondent*

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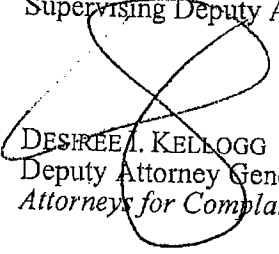
ENDORSEMENT

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

DATED: 10/21/16

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

  
DESIREE L. KELLOGG  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**  
**Accusation No. 5558**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
4 State Bar No. 126461  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2996  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5558

12 **TRINITY MISSION PHARMACY, INC.,**  
13 **TRINA TRINH TRAN AND NGOC MINH**  
14 **HO, OWNERS**  
16569 Brookhurst St.  
15 Fountain Valley, CA 92243

**ACCUSATION**

16 Pharmacy Permit No. PHY 50434

17 **JOEL BERNARD SOBURN**  
27122 Ocean Vista Drive, A  
18 Laguna Beach, CA 92651

19 Pharmacist License No. RPH 26296

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about December 22, 2010, the Board of Pharmacy issued Pharmacy Permit  
27 Number PHY 50434 to Trinity Mission Pharmacy, Inc. with Joel Bernard Soburn designated as  
28 the Pharmacist-in-Charge from February 1, 2012 to July 12, 2014. Trina Trinh Tran as the

1 President and the owner of fifty percent of the outstanding shares and Ngoc Minh Ho as the Vice  
2 President and owner of fifty percent of the outstanding shares (Respondent Trinity Mission  
3 Pharmacy.) The Pharmacy Permit was in full force and effect at all times relevant to the charges  
4 brought herein and will expire on December 1, 2015, unless renewed.

5 3. On or about August 5, 1969, the Board of Pharmacy issued Pharmacist License  
6 Number RPH 26296 to Joel Bernard Soburn (Respondent Joel Soburn). The Pharmacist License  
7 was in full force and effect at all times relevant to the charges brought herein and will expire on  
8 July 31, 2017, unless renewed.

### 9 JURISDICTION

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

13 5. Section 4011 of the Code provides that the Board shall administer and enforce both  
14 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
15 Act [Health & Safety Code, § 11000 et seq.].

16 6. Section 4300(a) of the Code provides that every license issued by the Board may be  
17 suspended or revoked.

18 7. Section 4300.1 of the Code states:

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

### 25 STATUTORY AND REGULATORY PROVISIONS

26 8. Section 4081 of the Code states in pertinent part:

27 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous  
28 drugs or dangerous devices shall be at all times during business hours open to  
inspection by authorized officers of the law, and shall be preserved for at least  
three years from the date of making. A current inventory shall be kept by every  
manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,  
physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,  
or establishment holding a currently valid and unrevoked certificate, license.

1 permit, registration, or exemption under Division 2 (commencing with Section  
2 1200) of the Health and Safety Code or under Part 4 (commencing with Section  
3 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock  
4 of dangerous drugs or dangerous devices.

5 (b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary  
6 food-animal drug retailer shall be jointly responsible, with the  
7 pharmacist-in-charge or representative-in-charge, for maintaining the records and  
8 inventory described in this section.

9 9. Section 4105(a) of the Code states:

10 All records or other documentation of the acquisition and disposition of  
11 dangerous drugs and dangerous devices by any entity licensed by the board shall be  
12 retained on the licensed premises in a readily retrievable form.

13 10. Section 4113(c) of the Code states:

14 The pharmacist-in-charge shall be responsible for a pharmacy's compliance  
15 with all state and federal laws and regulations pertaining to the practice of pharmacy.

16 11. Section 4301 of the Code states in pertinent part:

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

21 ...

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

24 ...

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

...

12. Section 4307(a) of the Code states that:

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

owner, member, officer, director, associate, or partner of a licensee as follows:

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

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

....

13. Sections 1714(b) and (d) of title 16, California Code of Regulations state:

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

...

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

14. Section 1715(a) of title 16, California Code of Regulations states:

The pharmacist-in-charge of each pharmacy as defined under section 4029 or section 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

15. Section 1715.6 of title 16, California Code of Regulations states:

The owner shall report to the Board within thirty (30) days of discovery of any loss of the controlled substances, including their amounts and strengths.

16. Section 1718 of title 16, California Code of Regulations states:

"Current Inventory" as used in Section 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Section 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least three years.

17. Section 11165(d) of the Health & Safety Code states in part:

For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon



1 as reasonably possible, but not more than seven days after the date a controlled  
2 substance is dispensed, in a format specified by the Department of Justice:

3 (1) Full name, address, and, if available, telephone number of the ultimate  
4 user or research subject, or contact information as determined by the Secretary of the  
5 United States Department of Health and Human Services, and the gender, and date of  
6 birth of the ultimate user.

7 (2) The prescriber's category of licensure, license number, national provider  
8 identifier (NPI) number, if applicable, the federal controlled substance registration  
9 number, and the state medical license number of any prescriber using the federal  
10 controlled substance registration number of a government-exempt facility.

11 (3) Pharmacy prescription number, license number, NPI number, and  
12 federal controlled substance registration number.

13 (4) National Drug Code (NDC) number of the controlled substance  
14 dispensed.

15 (5) Quantity of the controlled substance dispensed.

16 (6) International Statistical Classification of Diseases, 9<sup>th</sup> revision (ICD-9)  
17 or 10<sup>th</sup> revision (ICD-10) Code, if available.

18 (7) Number of refills ordered.

19 (8) Whether the drug was dispensed as a refill of a prescription or as a first-  
20 time request.

21 (9) Date of origin of the prescription.

22 (10) Date of dispensing of the prescription.

### 23 COST RECOVERY

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

### 28 DRUGS

19. Adipex P is the brand name for phentermine, a Schedule IV controlled substance  
pursuant to Health and Safety Code section 11057(f) and a dangerous drug pursuant to Business  
and Professions Code section 4022.

1 20. Ambien is the brand name for zolpidem, a Schedule IV controlled substance pursuant  
2 to Health and Safety Code section 11057(d) and a dangerous drug pursuant to Business and  
3 Professions Code section 4022.

4 21. Norco is the brand name for hydrocodone/acetaminophen, a Schedule III controlled  
5 substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant  
6 to Business and Professions Code section 4022.

7 22. Tramadol is a Schedule IV controlled substance pursuant to the Controlled  
8 Substances Act and a dangerous drug pursuant to Business and Professions Code section 4022.

9 23. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant  
10 to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and  
11 Professions Code section 4022.

12 **FACTUAL ALLEGATIONS**

13 24. From February 1, 2012 to July 12, 2012, Respondent Joel Soburn was the  
14 Pharmacist-in-Charge of Trinity Mission Pharmacy. From December 22, 2010, Trina Trinh Tran  
15 was the President and the owner of fifty percent of the outstanding shares of Trinity Mission  
16 Pharmacy, Inc. and Ngoc Minh Ho was the Vice President and the owner of fifty percent of the  
17 outstanding shares of Trinity Mission Pharmacy, Inc.

18 25. From September 5, 2012 until December 17, 2014, Trinity Mission Pharmacy did not  
19 maintain adequate security for controlled substances. For example, multiple individuals were  
20 allowed to order controlled substances from wholesalers and there were no security cameras in  
21 the pharmacy. As a result, there was a loss in Trinity Mission Pharmacy's inventory of 4,538  
22 tablets of zolpidem 10 mg, 7,291 tablets of phentermine 37.5 mg, 42,760 tablets of Norco 10/325  
23 mg and 45,019 of alprazolam 2 mg in Trinity Mission Pharmacy's drug inventory.

24 26. In or about July 2014, the losses were discovered by the pharmacist-in-charge. The  
25 owners admitted to diverting controlled substances from Trinity Mission Pharmacy and to  
26 ordering controlled substances on days when the pharmacist-in-charge was not on duty.  
27 Additionally, a bottle of 1000 tablets of Tramadol 50 mg was stored in a desk drawer, rather than  
28 in Trinity Mission Pharmacy's shelves with the drug inventory.

1 27. In August 2014, Respondent Trinity Mission Pharmacy failed to have its new  
2 pharmacist-in-charge complete a self assessment within 30 days of the change in the pharmacist-  
3 in-charge. Respondent Trinity Mission Pharmacy also failed to submit prescription data to the  
4 Controlled Substance Utilization Review and Evaluation System (CURES) on a weekly basis  
5 from July 30, 2014 through December 18, 2014.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Failure to Maintain Current Inventory of Controlled Substances against Respondents**

8 **Trinity Mission Pharmacy and Joel Soburn)**

9 28. Respondents Trinity Mission Pharmacy and Joel Soburn are subject to disciplinary  
10 action under Code section 4301(o), for violating title 16, California Code of Regulations, section  
11 1718, in that they did not maintain a current inventory of controlled substances, Norco 10/325,  
12 zolpidem 10mg, alprazolam 2 mg and phentermine 37.5 mg and suffered losses in their inventory  
13 of those controlled substances, as set forth in paragraphs 24 through 27 above, which are  
14 incorporated herein by reference.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Failure to Provide Adequate Security for Controlled Substances**

17 **against Respondent Trinity Mission Pharmacy and Joel Soburn)**

18 29. Respondents Trinity Mission Pharmacy and Joel Soburn are subject to disciplinary  
19 action under Code section 4301(o), for violating title 16, California Code of Regulations, sections  
20 1714(b) and 1714(d), in that they did not provide adequate security for zolpidem 10mg,  
21 phentermine 37.5 mg, Norco 10/325 mg and alprazolam 2 mg, as set forth in paragraphs 24  
22 through 27 above, which are incorporated herein by reference.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Records of Acquisition and Disposition against Respondents Trinity**

25 **Mission Pharmacy and Joel Soburn)**

26 30. Respondents Trinity Mission Pharmacy and Joel Soburn are subject to disciplinary  
27 action under Code section 4301(o), for violating Code sections 4081(a) and 4105(a), in that they  
28 failed to maintain all the records of acquisition and disposition for the controlled substances.

1 alprazolam 2mg, zolpidem 10 mg, phentermine 37.5 mg and Norco 10/325 mg, as set forth in  
2 paragraphs 24 through 27, which are incorporated herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Complete Self-Assessment against Respondent Trinity Mission Pharmacy)**

5 31. Respondent Trinity Mission Pharmacy is subject to disciplinary action under Code  
6 section 4301(o), for violating California Code of Regulations, title 16, 1715(a), in that it failed to  
7 complete a self-assessment upon the change of the pharmacist-in-charge in or about August 2014,  
8 as set forth in paragraphs 24 through 27, which are incorporated herein by reference.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Failure to Report Prescription Information to CURES against Respondent Trinity Mission  
11 Pharmacy)**

12 32. Respondent Trinity Mission Pharmacy is subject to disciplinary action under Code  
13 section 4301(j), for violating Health & Safety Code section 11165(d), in that it failed to report  
14 prescription information to CURES, as set forth in paragraphs 24 through 27, which are  
15 incorporated herein by reference.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct against Respondents)**

18 33. Respondents are subject to disciplinary action under Code section 4301 for  
19 unprofessional conduct in that they engaged in the activities described in paragraphs 24 through  
20 27 above, which are incorporated herein by reference.

21 **OTHER MATTERS**

22 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
23 PHY 50434 issued to Trinity Mission Pharmacy, Inc., Trinity Mission Pharmacy, Inc. shall be  
24 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
25 or partner of a licensee for five years if Pharmacy Permit Number PHY 50434 is placed on  
26 probation or until Pharmacy Permit Number PHY 50434 is reinstated if it is revoked.

27 35. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
28 Number PHY 50434 issued to Trinity Mission Pharmacy, Inc. while Trina Trinh Tran and/or

1 Ngoc Minh Ho have been an officer and owner and had knowledge of or knowingly participated  
2 in any conduct for which the licensee was disciplined, Trina Trinh Tran and Ngoc Minh Ho shall  
3 be prohibited from serving as a manager, administrator, owner, member, officer, director,  
4 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50434 is  
5 placed on probation or until Pharmacy Permit Number PHY 50434 is reinstated if it is revoked.

#### 6 DISCIPLINARY CONSIDERATIONS

7 36. To determine the degree of discipline, if any, to be imposed on Respondents,  
8 Complainant alleges that on or about November 11, 1993, Joel Soburn's pharmacist license was  
9 revoked, the revocation stayed and his license placed on probation for unprofessional conduct  
10 including the failure to keep records of the acquisition and disposition of dangerous drugs, the  
11 holding of misbranded drugs and the commission of acts which constitutes adulterated drugs.

#### 12 PRAYER

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

15 1. Revoking or suspending Pharmacist License Number PHY 50434, issued to Trinity  
16 Mission Pharmacy, Inc.;

17 2. Revoking or suspending Pharmacist License Number RPH 26296, issued to Joel  
18 Bernard Soburn;

19 3. Prohibiting Trinity Mission Pharmacy, Inc. from serving as a manager, administrator,  
20 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy  
21 Permit Number PHY 50434 is placed on probation or until Pharmacy Permit Number PHY  
22 50434 is reinstated if Pharmacy Permit Number 50434 issued to Trinity Mission Pharmacy, Inc.  
23 is revoked;

24 4. Prohibiting Trina Trinh Tran from serving as a manager, administrator, owner,  
25 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
26 Number PHY 50434 is placed on probation or until Pharmacy Permit Number PHY 50434 is  
27 reinstated if Pharmacy Permit Number 50434 issued to Trinity Mission Pharmacy, Inc. is  
28 revoked;

1           5. Prohibiting Ngoc Minh Ho from serving as a manager, administrator, owner, member,  
2 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
3 PHY 50434 is placed on probation or until Pharmacy Permit Number PHY 50434 is reinstated if  
4 Pharmacy Permit Number PHY 50434 issued to Trinity Mission Pharmacy, Inc. is revoked:

5           6. Ordering Trinity Mission Pharmacy, Inc. and Joel Bernard Soburn to pay the Board  
6 of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to  
7 Business and Professions Code section 125.3;

8           7. Taking such other and further action as deemed necessary and proper.

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DATED: \_\_\_\_\_

*3/2/16*

*Virginia Herold*

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

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