1 2 3 4 5	EDMUND G. BROWN JR, Attorney General of the State of California LINDA K. SCHNEIDER Supervising Deputy Attorney General ANTOINETTE B. CINCOTTA, State Bar No. 1204 Deputy Attorney General California Department of Justice 110 West "A" Street, Suite 1100 San Diego, CA 92101 Telephone: (619) 645-2095 Facsimile: (619) 645-2061 Attorneys for Complainant	182			
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS				
9	STATE OF CONSUMER AFFAIRS STATE OF CALIFORNIA				
10	In the Matter of the Accusation Against:	Case No. 3587			
12	JOHN C. MURPHY 79685 Star Flower Trail				
13	La Quinta, CA 92253	WITHDRAWAL OF ACCUSATION			
14	Pharmacist License No. RPH 22398				
15	Respondent.				
16					
17					
18	On or about June 3, 2010, Complainant Virg	ginia Herold ("Complainant"), in her official			
19	capacity as the Executive Officer of the Board of Pl	narmacy, Department of Consumer Affairs,			
20	filed Accusation No. 3587 against Respondent John	C. Murphy (Pharmacist License No. RPH			
21	22398).				
22	Complainant, exercising her discretionary as	athority pursuant to Title 16, California Code			
23	of Regulations, Section 1703, and acting on information submitted to her, and in the interest of				
24	justice, has determined that good cause exists to withdraw Accusation No. 3587 against				
25	Respondent John C. Murphy.				
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WHEREFORE, Complainant hereby withdraws Accusation No. 3587, filed on or about June 3, 2010, against Respondent John C. Murphy (Pharmacist License No. RPH 22398).

DATED: 10/5/10

VIRGINIA K. HEROLD

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant

1	EDMUND G. BROWN JR.					
. 2	Attorney General of California LINDA K. SCHNEIDER					
3	Supervising Deputy Attorney General ANTOINETTE B. CINCOTTA Deputy Attorney General State Bar No. 120482					
4						
5	110 West "A" Street, Suite 1100 San Diego, CA 92101					
6	P.O. Box 85266 San Diego, CA 92186-5266					
7	Telephone: (619) 645-2095 Facsimile: (619) 645-2061					
8	Attorneys for Complainant					
9	BEFORE THE BOARD OF PHARMACY					
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA					
11	Case No. 3587					
12	In the Matter of the Accusation Against:					
13	JOHN C. MURPHY 79685 Star Flower Trail ACCUSATION					
14	La Quinta, CA 92253					
15	Pharmacist License No. RPH 22398					
16	Respondent.					
17	Complainant alleges:					
18	PARTIES					
19.	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity					
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.					
21	2. On or about February 5, 1962, the Board of Pharmacy issued Pharmacist License					
22	Number RPH 22398 to John C. Murphy (Respondent). The Pharmacist License was in full force					
23	and effect at all times relevant to the charges brought herein and will expire on January 31, 2011,					
24	unless renewed.					
25	JURISDICTION					
26	3. This Accusation is brought before the Board of Pharmacy (Board), Department of					
27	Consumer Affairs, under the authority of the following laws. All section references are to the					
28	Business and Professions Code unless otherwise indicated.					
	1					

4.	Section 4300	of the Code states,	in relevant part:	""(a) Every	license	issued n	nay be
suspended	or revoked."						

Section 118 of the Code states in relevant part:

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

STATUTORY PROVISIONS

Section 4301 of the Code states:

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

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

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

28

1	"(j) The violation of any of the statutes of this state, or any other state, or of the United
2	States regulating controlled substances and dangerous drugs.
3	"
4	"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
5	violation of or conspiring to violate any provision or term of this chapter or of the applicable
6	federal and state laws and regulations governing pharmacy, including regulations established by
7	the board or by any other state or federal regulatory agency.
8	" "
9	7. Section 4022 of the Code states
10	"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
11	humans or animals, and includes the following:
12	"(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
13	prescription," "Rx only," or words of similar import.
14	"(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
15	by or on the order of a," "Rx only," or words of similar import, the blank to be filled
16	in with the designation of the practitioner licensed to use or order use of the device.
17	"(c) Any other drug or device that by federal or state law can be lawfully dispensed only or
18	prescription or furnished pursuant to Section 4006."
19	DRUGS
20	8. Hydrocodone is a Schedule III controlled substance as designated by Health and
21	Safety Code section 11056(e)(4), and is a dangerous drug pursuant to Business and Professions
22	Code section 4022. Hydrocodone is a narcotic pain reliever.
23	9. Diphenoxylate/atropin is a Schedule V controlled substance as designated by Health
24	and Safety Code section 11058, and is a dangerous drug persuant to Business and Professions
25	Code section 4022. It is used for the treatment of diarrhea.
26	COST RECOVERY
27	10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
28	administrative law judge to direct a licentiate found to have committed a violation or violations of

1	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2	enforcement of the case.
3	FIRST CAUSE FOR DISCIPLINE
4	(Unprofessional Conduct – Committing Acts Involving
5	Moral Turpitude, Dishonesty, Fraud or Deceit)
6	11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
7	that Respondent stole and self administered dangerous drugs while performing duties as a
8	pharmacist. The circumstances are as follows:
9	12. Between April 10, 2008 and December 18, 2008, while working as a pharmacist at
10	Ralphs Pharmacy 160, located at 49908 Jefferson Street in Indio, California, Respondent stole
11	and self-administered Hydrocodone, and Diphenoxylate/atropin tablets.
12	SECOND CAUSE FOR DISCIPLINE
13	(Unlawful Self-Administration of a Controlled Substance)
14	13. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
15	that Respondent stole and self-administered dangerous drugs while performing duties as a
16	pharmacist as set forth in paragraph 12 above, which is incorporated here by this reference.
17	THIRD CAUSE FOR DISCIPLINE
18	(Unlawful Possession of a Controlled Substance)
19	14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
20	(o) in that Respondent stole dangerous drugs while performing duties as a pharmacist as set forth
21	in paragraph 12, above which is incorporated here by this reference.
22	FOURTH CAUSE FOR DISCIPLINE
23	(Unprofessional Conduct - Working While Under the Influence of Dangerous Drugs)
24	15. Respondent is subject to disciplinary action under section 4301, subdivision (o), for
25	violation of section 4327 in that Respondent used dangerous drugs without a valid prescription
26	while performing duties as a pharmacist. The circumstances are set forth in paragraph 12, which
27	are incorporated here by this reference.
28	

PRAYER WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision: 1. Revoking or suspending Pharmacist Number RPH 22398, issued to John C. Murphy; 2. Ordering John C. Murphy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; 3. Taking such other and further action as deemed necessary and proper. Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant SD2010800088 80458434.doc